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COMMISSION ON HUMAN RIGHTS
Sub-Commission on Prevention of
Discrimination and Protection
of Minorities
Forty-fifth session

# ANNOTATIONS TO THE PROVISIONAL AGENDA

Prepared by the Secretary-General

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## Item 1. Election of officers

1. Rule 15 of the rules of procedure of the functional commissions of the Economic and Social Council provides that "at the commencement of its first meeting of a regular session", the Sub-Commission "shall elect, from among the representatives of its members, a Chairman, one or more Vice-Chairmen and such other officers as may be required".

## Item 2. Adoption of the agenda

2. Rule 7 of the rules of procedure provides that the agenda shall be adopted at the beginning of each session, after the election of officers, on the basis of the provisional agenda. The provisional agenda for the present session of the Sub-Commission is contained in document E/CN.4/Sub.2/1993/1.

3. At its thirty-eighth session, the Sub-Commission, by its decision 1985/109, decided to observe at the commencement of its future annual sessions, beginning with the thirty-ninth session, a minute of silence in honour of the victims of apartheid in South Africa.

4. Since 1985, the Sub-Commission has taken a number of decisions regarding the consideration, on a biennial basis, of certain agenda items (see resolutions 1985/34 and 1989/1 and decision 1988/104).

5. As a result of those decisions, the Sub-Commission has considered the following items on a biennial basis:

(a) Elimination of all forms of intolerance and of discrimination based on religion or belief;

(b) International peace and security as an essential condition for the enjoyment of human rights, above all the right to life;

(c) Human rights and disability;

(d) Human rights and scientific and technological developments;

(e) Encouragement of universal acceptance of human rights instruments.

6. By its decision 1992/112, the Sub-Commission decided to delete the word "colonialist" between the word "racist" and the word "regime" from the title of agenda item 5, sub-item (b), and to include in the provisional agenda of the forty-fifth session of the Sub-Commission an agenda item provisionally entitled "Freedom of movement", as item 18.

## Organization of work

7. With regard to the question of the organization of work of the present session, the Sub-Commission may recall that paragraph 2 of rule 24 of the rules of procedure of the Economic and Social Council provides that, except for the regional commissions, the commissions and committees of the Council shall not create either standing or ad hoc inter-sessional subsidiary bodies without prior approval of the Council.

8. Three working groups were scheduled to meet prior to the forty-fifth session of the Sub-Commission: the Working Group on Communications (see annotations to item 9), the Working Group on Indigenous Populations (see annotations to item 14) and the Working Group on Contemporary Forms of Slavery (see annotations to item 15). The Working Group on Contemporary Forms of Slavery met from 17 to 27 May 1993. The Working Group on Communications and the Working Group on Indigenous Populations are scheduled to meet from 19 to 30 July 1993.

9. At its thirty-fourth and subsequent sessions, the Sub-Commission established a sessional working group to assist it in relation to its annual review of developments concerning the human rights of persons subjected to any form of detention or imprisonment. The Sub-Commission may wish to consider establishing such a working group at the present session.

10. When considering its organization of work, the Sub-Commission may wish to take into account Commission resolution 1993/28, in which the Commission, inter alia,

(a) Reaffirmed that the Sub-Commission on Prevention of Discrimination and Protection of Minorities could best assist the Commission on Human Rights by providing it with recommendations based on the different views and perspectives of independent experts, which should be appropriately reflected in the report of the Sub-Commission, as well as in the expert studies carried out under its auspices;

(b) Called upon the Sub-Commission, in the fulfilment of its functions and duties, to be guided by the relevant resolutions of the Commission and the Economic and Social Council;

(c) Reaffirmed that one of the tasks of the Sub-Commission was a thorough examination of information concerning alleged human rights violations, as well as the presentation of the results of the examination to the Commission;

(d) Requested the Sub-Commission to restrict its requests to the Secretary-General to ask Governments, intergovernmental organizations, the specialized agencies and other such bodies for their views and comments to requests relating to those studies which have received prior explicit approval from the Commission;

(e) Invited the Sub-Commission to continue to give due regard to new developments in the field of human rights.

11. In the same resolution, the Commission invited its Chairman to inform the Sub-Commission on the debate in the Commission on the work of the Sub-Commission.

12. Also in connection with its organization of work, the Sub-Commission will recall that at its forty-fourth session it adopted 17 guidelines concerning its methods of work which were annexed to its resolution 199/28.

13. The Sub-Commission will also recall its decision 1990/122, by which it decided that draft resolutions and decisions should not be introduced by one of the sponsors, and urged members not to make general comments on the draft, but rather to offer only concrete proposals on the texts.

14. With regard to documentation, the attention of the Sub-Commission is drawn to Economic and Social Council resolution 1986/33, adopted upon the recommendation of the Commission contained in its resolution 1986/31, by which the Council requested the Sub-Commission henceforth to submit to the Commission, after a thorough examination, the studies and reports prepared by the special rapporteurs of the Sub-Commission with a brief written introductory statement by the special rapporteur, and to discontinue the practice of requesting special rapporteurs to introduce their reports personally to the Commission. The Council further requested the Sub-Commission to adhere strictly to the guidelines governing the limitation of documents and to ensure that special rapporteurs responsible for preparing reports and studies were brief and concise and that their reports and studies, as far as possible, did not exceed 32 pages. The Council also decided that henceforth studies prepared by special rapporteurs of the Sub-Commission should be printed only following an express decision to that effect taken by the Commission and subsequently by the Council, which should have an opportunity to study the relevant financial implications. In this connection, reference should be made to Economic and Social Council resolution 1982/50 and the annex thereto, Commission resolutions 17 (XXXVII) of 10 March 1981, 1983/22, 1983/28, 1988/43, 1989/32 and 1991/56, as well as the instructions issued by the Secretary-General with respect to documentation for meetings (ST/SGB/184/Add.1 and ST/AI/189/Add.20/Rev.1).

Interpretation of rule 59 of the rules of procedure of the functional commissions of the Economic and Social Council

15. At its forty-second session, the Sub-Commission decided to suspend temporarily rule 59 of the rules of procedure for the purpose of protecting the independence of experts during the time necessary to vote on the draft resolutions under agenda item 6 (decision 1990/105) and agenda item 9 (decision 1990/111).

16. At the same session, the Sub-Commission adopted resolution 1990/4, by which it recommended to the Commission the adoption of a draft resolution recommending that the Economic and Social Council should add the following footnote to rule 59 of the rules of procedure of its functional commissions:

> "It is understood that the Sub-Commission on Prevention of Discrimination and Protection of Minorities will vote on resolutions pertaining to allegations of violations of human rights in countries by secret ballot."

17. At its forty-seventh session, the Commission, in its resolution 1991/81, recommended to the Council that it interpret rule 59 of the rules of procedure as follows: it is understood that the Sub-Commission on Prevention of Discrimination and Protection of Minorities may vote on resolutions pertaining to allegations of violations of human rights in countries by secret ballot, when it so decides by a majority of its present and voting members. This recommendation was adopted by the Economic and Social Council at its first regular session of 1991, in its resolution 1991/32.

18. At its forty-fourth session, the Sub-Commission, by its decision 1992/105, decided, pursuant to Economic and Social Council resolution 1991/32, to vote on resolutions, decisions and any proposals of a substantive nature under agenda item 6 of its forty-fourth session by secret ballot, whenever a vote was requested thereon.

## Item 3. Review of the work of the Sub-Commission

19. This item was first on the Sub-Commission's agenda at its thirty-fifth session, in accordance with its decision 2 (XXXIV) of 3 September 1981. Subsequently, the Economic and Social Council, by resolutions 1983/32 and 1986/35; the Commission, by resolutions 1983/21, 1983/22, 1984/60, 1985/28, 1986/37, 1986/38, 1987/35, 1988/43, 1989/36, 1990/64, 1991/56 and 1992/66 and decision 1986/102; and the Sub-Commission, by resolutions 1983/21, 1984/37 and 1985/24 and decisions 1990/101 and 1991/117, provided a number of general and specific directives and suggestions concerning the Sub-Commission's role and methods of work. In its resolutions 1991/56 and 1992/66, the Commission requested the Chairmen of the Sub-Commission to report to the Commission on the implementation of the guidelines and initiatives provided by the Commission in those resolutions. The Chairmen of the Sub-Commission submitted their reports to the Commission at its forty-eighth (E/CN.4/1992/46) and forty-ninth (E/CN.4/1993/60) sessions.

20. At its forty-fourth session, the Sub-Commission, in its resolution 1992/8, having taken note of the report of the inter-sessional Working Group on the methods of work of the Sub-Commission established pursuant to Commission on Human Rights resolution 1992/66, decided to continue at its forty-fifth session consideration of those aspects of its methods of work which had not yet been discussed. The Sub-Commission also decided to annex to that resolution the document entitled "Guidelines which the Sub-Commission adopted at its forty-fourth session concerning its methods of work, pursuant to paragraphs 6 and 7 of Commission on Human Rights resolution 1992/66."

21. The Commission on Human Rights, at its forty-ninth session, adopted resolution 1993/28 entitled "Work of the Sub-Commission on Prevention of Discrimination and Protection of Minorities". In that resolution, the Commission, in addition to the points described in paragraph 10 above, took note with appreciation of the steps taken by the Sub-Commission to rationalize and streamline its work and welcomed Sub-Commission resolution 1992/8 of 26 August 1992 and the guidelines annexed thereto. The Commission also invited the Sub-Commission to continue its consideration of ways in which its work should be improved with a view to making recommendations on the following points:

(a) Initiatives for a better coordination with the Commission on Human Rights and the other competent organs of the United Nations acting in the field of human rights;

(b) Further strengthening the independence of its experts;

(c) Proposals concerning the rationalization of the agenda, bearing in mind, inter alia, the relationship between the agenda of the Sub-Commission and that of the Commission on Human Rights;

(d) Initiatives which would facilitate the widest possible dissemination of the findings of the Sub-Commission, such as the preparation of a short summary of each completed study, the purpose being that the summaries of all studies completed during a session be published separately in various languages, for example in the Fact Sheet series of the Centre for Human Rights, thus contributing to better publicity for the studies;

(e) Developing a programme of familiarization with the work of the Sub-Commission for new members and alternates, in particular by providing them in good time with a wide variety of documents from the Sub-Commission and other information material.

22. With respect to standard-setting activities, the Sub-Commission will recall Commission resolution 1987/24, in which the Commission invited the Sub-Commission, when engaged in developing international instruments in the field of human rights, to bear in mind the guidelines established in General Assembly resolution 41/120 of 4 December 1986. In that resolution, the Assembly urged Member States and United Nations bodies engaged in developing new international human rights standards to give due consideration in that work to the established international legal framework, and invited Member States and United Nations bodies to bear in mind the following guidelines in developing international instruments in the field of human rights. Such instruments should, inter alia:

(a) Be consistent with the existing body of international human rights law;

(b) Be of fundamental character and derive from the inherent dignity and worth of the human person;

(c) Be sufficiently precise to give rise to identifiable and practicable rights and obligations;

(d) Provide, where appropriate, realistic and effective implementation machinery, including reporting systems;

(e) Attract broad international support.

Implementation of paragraphs 2 and 6 of resolution 8 (XXIII) of the Commission

23. In its resolution 8 (XXIII) of 16 March 1967, the Commission on Human Rights, inter alia, requested the Sub-Commission to prepare, for the use of the Commission in its examination of that question, a report containing information on violations of human rights and fundamental freedoms from all available sources (para. 2). The Commission further invited the Sub-Commission to bring to the attention of the Commission any situation which it had reasonable cause to believe revealed a consistent pattern of violations of human rights and fundamental freedoms, in any country, including policies of racial discrimination, segregation and apartheid, with particular reference to colonial and other dependent territories (para. 6).

24. At its fortieth session, the Commission decided to continue at its forty-first session the discussion of the various possibilities of implementation of paragraphs 2 and 6 of resolution 8 (XXIII) of the Commission, without prejudice to the confidential procedure provided for in resolution 1503 (XLVIII) of the Economic and Social Council or other procedures instituted since the adoption of that resolution by the Council (decision 1988/104).

25. At its forty-first session, by its decision 1989/104, the Sub-Commission decided that, at the beginning of its forty-second session, it would establish a sessional working group of five of its members, appointed by the various regional groups and open to the participation of other members of the Sub-Commission, to prepare an overview and an analysis of the suggestions and proposals which had been made in order to enable the Sub-Commission better to discharge its responsibilities in dealing with violations of human rights as discussed under item 6 of its agenda, taking also into account the functions and duties of the Commission on Human Rights in the matter. The Sub-Commission further decided to request the same sessional working group, in preparing the overview and analysis, to submit to the Sub-Commission its views and recommendations as to the possible advantages and disadvantages of the various suggestions and proposals referred to above, and to present its findings in the light of the deliberations of the Sub-Commission at its forty-second session under the agenda item relating to the question of the violations of human rights and fundamental freedoms.

26. At its forty-second session, the Sub-Commission, in its decision 1990/125, took note of the report of its Working Group established pursuant to its decision 1989/104 (E/CN.4/Sub.2/1990/14) and decided that the Working Group should continue its work at the forty-third session of the Sub-Commission.

27. At its forty-third session, the Sub-Commission, by its decision 1991/101, decided to establish a sessional working group on the question of the violation of human rights and fundamental freedoms, including policies of racial discrimination and segregation and of apartheid in all countries, with particular reference to colonial and other dependent countries and territories: report of the Sub-Commission under Commission on Human Rights resolution 8 (XXIII). By its decision 1991/117, the Sub-Commission decided to establish in 1992, on an exceptional basis, an intersessional working group which would have as its task the elaboration of proposals for the rationalization of the work and agenda of the Sub-Commission with regard to, inter alia, methods and means of dealing with violations of human rights.

28. At its forty-eighth session, the Commission, in its resolution 1992/66, reaffirmed that one of the tasks of the Sub-Commission was a thorough examination of information concerning alleged human rights violations, as well as the presentation of the research and the results of the examination to the Commission.

29. In its report (E/CN.4/Sub.2/1992/3), the intersessional Working Group on the methods of work of the Sub-Commission recommended to the Sub-Commission that it transmit to the sessional Working Group the document prepared by Mr. Chernichenko entitled "Draft proposal on the methods of consideration in the Sub-Commission of violations of human rights" (E/CN.4/Sub.2/1992/3/Add.1) which the intersessional Working Group had not been able to consider because of the limits to its terms of reference.

Item 4. Review of further developments in fields with which the Sub-Commission has been concerned

30. This item has been regularly considered by the Sub-Commission since 1962, in conformity with resolution 5 (XIV). The Sub-Commission, at its forty-fifth session, will have before it a note by the Secretary-General containing a review of further developments in fields with which the Sub-Commission has been concerned (E/CN.4/Sub.2/1993/2).

31. Under this item, the Sub-Commission has discussed recent activities of the International Labour Organisation (ILO) and the United Nations Educational, Scientific and Cultural Organization (UNESCO) relating to matters dealt with by the Sub-Commission. The reports of ILO and UNESCO on their activities relating to these matters will be available in documents E/CN.4/Sub.2/1993/3 and E/CN.4/Sub.2/1993/4 respectively.

Traditional practices affecting the health of women and children

32. The Sub-Commission, at its thirty-sixth session, in resolution 1983/1, made recommendations concerning a study relating to traditional practices affecting the health of women and children. The Commission, for its part, in resolution 1984/48, recommended to the Economic and Social Council that a working group of experts should undertake such a study. The Council endorsed that recommendation (resolution 1984/34) and the report of the Working Group was presented to the Commission at its forty-second session, in 1986 (E/CN.4/1986/42). The Commission, in its resolution 1986/26, requested the Secretary-General to transmit the report to Governments, competent organizations and specialized agencies, drawing their attention to the recommendations contained therein. At its forty-fourth session, the Commission, in its resolution 1988/57, requested the Sub-Commission to consider measures to be taken at the national and international levels to eliminate such practices, and to submit a report to the Commission.

33. The Sub-Commission, at its fortieth session, in resolution 1988/34, requested Ms. Halima Embarek Warzazi to study, on the basis of information to be gathered from Governments, specialized agencies and other intergovernmental and non-governmental organizations concerned, recent developments with regard to traditional practices affecting the health of women and children, and to bring the results of her study to the attention of the Sub-Commission at its forty-first session. The Commission, at its forty-fifth session, by its decision 1989/107, approved the Sub-Commission's request.

34. At its forty-first session, in its resolution 1989/16, the Sub-Commission took note of Ms. Warzazi's preliminary report (E/CN.4/Sub.2/1989/42 and Add.1) and recommended to the Commission on Human Rights: that the mandate of the Special Rapporteur be extended for two years to enable her to present a more complete report; that field missions be undertaken by Ms. Warzazi, if possible to two countries where harmful traditional practices were prevalent; that international regional seminars be held on the subject of harmful traditional practices in Africa and Asia; and that the subject of traditional practices be maintained on the agenda of the Sub-Commission for sustained follow-up.

35. The recommendations were endorsed by the Commission (decision 1990/109) and the Economic and Social Council (decision 1990/247).

36. At its forty-third session, the Sub-Commission, in its resolution 1991/23, having studied the final report of the Special Rapporteur (E/CN.4/Sub.2/1991/6), as well as the report of the regional seminar held in Burkina Faso from 29 April to 3 May 1991 (E/CN.4/Sub.2/1991/48), recommended that the subject of harmful traditional practices affecting the health of women and children be maintained on the agenda of the Sub-Commission in so far as they constituted violations of human rights within the meaning of the relevant instruments of the International Bill of Human Rights and many other international conventions, in particular the Convention on the Rights of the Child; and that the mandate of the Special Rapporteur be extended for two years to enable her to submit to the Sub-Commission at its forty-fifth session a plan of action for the elimination of harmful traditional practices affecting the health of women and children, and a report on the regional seminar which will take place in Asia.

37. The recommendations were endorsed by the Commission (decision 1992/109) and the Economic and Social Council (decision 1992/251).

Question of the impunity of perpetrators of violations of human rights

38. By its decision 1991/110, the Sub-Commission, taking into account the interest shown at its forty-third session in the working paper on measures to be taken to combat the increasingly widespread practice of impunity for perpetrators of serious violations of human rights (E/CN.4/Sub.2/1991/WP.5), decided to request Mr. El Hadji Guissé and Mr. Louis Joinet to draft a working paper expanding and elaborating upon the above-mentioned paper, for consideration by the Sub-Commission at its forty-fourth session.

39. At its forty-fourth session, the Sub-Commission, in its resolution 1992/23, took note with satisfaction of the working paper prepared by Mr. Guissé and Mr. Joinet (E/CN.4/Sub.2/1992/18) and decided to request them to draft a study on the impunity of perpetrators of violations of human rights in order, in particular, to determine the scale of the phenomenon of impunity and to propose measures to combat that practice. This decision was endorsed by the Commission in its resolution 1993/43.

40. At the present session, the Sub-Commission will have before it a preliminary report prepared by the two Special Rapporteurs (E/CN.4/Sub.2/1993/6).

Human rights and the environment

41. At its forty-second session, having considered the concise note of Ms. Fatma Zohra Ksentini on the subject (E/CN.4/Sub.2/1990/12), the Sub-Commission adopted resolution 1990/7, in which it entrusted Ms. Ksentini with the task of preparing a study on human rights and the environment and requested her to submit a preliminary report to the Sub-Commission at its forty-third session.

42. At its forty-third session, the Sub-Commission adopted resolution 1991/24, in which it requested the Special Rapporteur to prepare a progress report on human rights and the environment. The Commission endorsed this request of the Sub-Commission in its decision 1992/110.

43. At its forty-fourth session, the Sub-Commission, in resolution 1992/31, took note with appreciation of the progress report on human rights and the environment (E/CN.4/Sub.2/1992/7 and Add.1) submitted by Ms. Ksentini and requested the Special Rapporteur to continue her study on that subject taking into account, inter alia, the comments made at the forty-fourth session of the Sub-Commission on her preliminary (E/CN.4/Sub.2/1991/8) and progress reports, as well as developments in that field relevant to the study. The Special Rapporteur was also requested to submit to the Sub-Commission, at its forty-fifth session, a second progress report containing additional information on and an analysis of decisions and views of international human rights organs and other relevant organs, as well as information on and an analysis of national law and practice, and to submit to the Sub-Commission, at its forty-sixth session, a final report which should include a set of conclusions and recommendations. The Commission, by its decision 1993/114, endorsed the Sub-Commission's request.

44. At its present session, the Sub-Commission will have before it the second progress report of the Special Rapporteur (E/CN.4/Sub.2/1993/7).

Compensation for victims of gross violations of human rights

45. The Sub-Commission, at its forty-first session, by its resolution 1989/13, entrusted Mr. Theo van Boven with the task of undertaking a study concerning the right to restitution, compensation and rehabilitation for victims of gross violations of human rights and fundamental freedoms, taking into account relevant existing international human rights norms on compensation and relevant decisions and views of international human rights organs, with a view to exploring the possibility of developing some basic principles and guidelines in this respect.

46. The Sub-Commission, at its forty-fourth session, by its resolution 1992/32, took note with appreciation of the second progress report (E/CN.4/Sub.2/1992/8) submitted by the Special Rapporteur, Mr. Theo van Boven, and requested him to continue his study, taking into account, inter alia, the comments made in the discussion on the preliminary and progress reports (E/CN.4/Sub.2/1990/10, E/CN.4/Sub.2/1991/7 and E/CN.4/Sub.2/1992/8), and to submit to the Sub-Commission, at its forty-fifth session, a final report which should include a set of conclusions and recommendations aimed at developing basic principles and guidelines with respect to the right to restitution, compensation and rehabilitation for victims of gross violations of human rights and fundamental freedoms.

47. The Commission, at its forty-ninth session, by its decision 1993/107, endorsed the Sub-Commission's request.

48. At the present session, the Sub-Commission will have before it the final report of the Special Rapporteur (E/CN.4/Sub.2/1993/8).

Discrimination against HIV-infected people or people with AIDS

49. The Sub-Commission, by its decision 1988/111, decided that the information provided to the Sub-Commission at its fortieth session by the World Health Organization, the International Commission of Jurists and certain members on the problem of discrimination against persons with the HIV virus or suffering from AIDS, together with the consideration set forth in General Assembly resolution 42/8 of 26 October 1987 and World Health Assembly resolution WHA 41.24 of 13 May 1988, justified consideration of the question whether the Sub-Commission should study that problem. Consequently, the

Sub-Commission asked Mr. Luis Varela Quirós to prepare, for submission to the Sub-Commission at its forty-first session, a concise note setting forth methods by which such a study could be made.

50. The Commission, by its resolution 1989/11, invited the Sub-Commission to examine, using the opportunity provided by the study on discrimination against persons with the HIV virus or suffering from AIDS envisaged in its decision 1988/111, the possibility of extending the scope of such a study to other kinds of discrimination against sick or disabled persons, in consultation with WHO and giving Governments that wished to express their views the opportunity to do so.

51. At its forty-first session, the Sub-Commission entrusted Mr. Varela Quirós with a study of problems and causes of discrimination against HIV-infected people or people with AIDS. The Sub-Commission recommended that the Special Rapporteur take into account Commission resolution 1989/11 and the issues and guidelines of the 1989 International Consultation on HIV/AIDS and Human Rights convened in Geneva.

52. At its forty-second session, the Sub-Commission, by its decision 1990/118, taking note of the preliminary report of the Special Rapporteur (E/CN.4/Sub.2/1990/9), decided to continue consideration of the progress report of the Special Rapporteur at its forty-third session.

53. At its forty-third session, in its decision 1991/109, the Sub-Commission, taking note of the progress report of the Special Rapporteur (E/CN.4/Sub.2/1991/10), decided to request him to submit his final report to the Sub-Commission at its forty-fourth session.

54. At its forty-fourth session, by its decision 1992/108, the Sub-Commission, taking note of the report of the Special Rapporteur (E/CN.4/Sub.2/1992/10) and taking into account the observations made by the Special Rapporteur, in particular concerning the material and submissions that he was unable to include in his report, decided to request the Special Rapporteur to submit his final report to the Sub-Commission at its forty-fifth session.

55. The Commission, in its resolution 1993/53, endorsed the Sub-Commission's request. At the present session, the Sub-Commission will have before it the final report of the Special Rapporteur (E/CN.4/Sub.2/1993/9).

Definition of gross and large-scale violations of human rights as an international crime

56. At its forty-fourth session, the Sub-Commission, by its decision 1992/109, having received the working paper prepared by Mr. S. Chernichenko on the preparation of a declaration defining gross and large-scale violations of human rights as an international crime (E/CN.4/Sub.2/1992/51), decided to authorize Mr. Chernichenko to submit to the Sub-Commission a more detailed working paper on that subject containing, inter alia, provisions that could be included in an appropriate declaration.

57. At the present session, the Sub-Commission will have before it the working paper submitted by Mr. Chernichenko (E/CN.4/Sub.2/1993/10).

Right to freedom of opinion and expression

58. At its fortieth session, the Sub-Commission, by its decision 1989/110, requested Mr. Danilo Türk to prepare a working paper containing a proposal for carrying out a study called for by the Commission on Human Rights in its resolution 1988/37 concerning the right to freedom of expression and opinion, with the aim of clarifying conceptual and methodological questions and to serve as a basis on which future decisions could be taken by the Sub-Commission on this matter.

59. At its forty-first session, the Sub-Commission, in its resolution 1989/14, decided to entrust Mr. Louis Joinet and Mr. Türk with the preparation of a study on the right to freedom of opinion and expression, the current problems of its realization and on measures necessary for its strengthening and promotion.

60. At the forty-second and forty-third sessions, the Special Rapporteurs submitted their preliminary report (E/CN.4/Sub.2/1990/11) and updated preliminary report (E/CN.4/Sub.2/1991/9) respectively. At its forty-third session, the Sub-Commission, by its resolution 1991/39, invited the Special Rapporteurs to submit a report which would include conclusions and recommendations.

61. At its forty-fourth session, the Sub-Commission had before it the final report prepared by the Special Rapporteurs (E/CN.4/Sub.2/1992/9 and Add.1). No action was taken by the Sub-Commission on this issue.

62. The attention of the Sub-Commission is drawn to Commission on Human Rights resolution 1993/45, entitled "Right to freedom of opinion and expression", in which the Commission commended the Special Rapporteurs of the Sub-Commission for their final report, including conclusions and recommendations. The Commission requested its Chairman to appoint, for a period of three years, an individual of recognized international standing as special rapporteur on the promotion and protection of the right to freedom of opinion and expression. The special rapporteur was requested to gather all relevant information, wherever it might occur, of discrimination against, threats or use of violence and harassment, including persecution and intimidation, directed at persons seeking to exercise or to promote the exercise of the right to freedom of opinion and expression, taking into account the work being conducted by other mechanisms of the Commission and Sub-Commission which touched on that right, with a view to avoiding duplication of work, and to submit a report to the Commission, beginning at its fiftieth session.

World Conference on Human Rights

63. The World Conference on Human Rights was held at Vienna from 14 to 25 June 1993. At the conclusion of the Conference, it adopted the Vienna Declaration and Programme of Action which deal with a wide range of issues and principles relating to human rights and set out the consensus reached at the Conference. The Vienna Declaration and Programme of Action is contained in the Report of the World Conference on Human Rights (A/CONF. 157)...).

## Item 5. Elimination of racial discrimination

Sub-item (a) Measures to combat racism and racial discrimination and the role of the Sub-Commission

64. The Sub-Commission decided to include this item in its agenda at its thirty-first session, in 1978, and the item has since remained on its agenda.

Implementation of the Programme for the Decade for Action to Combat Racism and Racial Discrimination

65. In resolution 3057 (XXVIII) of 2 November 1973, the General Assembly designated the 10-year period beginning on 10 December 1973 as the Decade for Action to Combat Racism and Racial Discrimination; the Programme was annexed to that resolution. Since that time, the question of the implementation of the Programme has been discussed at each session of the General Assembly, the Economic and Social Council, the Commission on Human Rights and the Sub-Commission.

66. The Second World Conference to Combat Racism and Racial Discrimination, which took place from 1 to 12 August 1983 in Geneva, adopted a Declaration and a Programme of Action for a Second Decade. Upon the recommendation of the Conference, the General Assembly, by its resolution 38/14 of 22 November 1983, proclaimed the period beginning on 10 December 1983 as the Second Decade to Combat Racism and Racial Discrimination and approved the Programme of Action annexed to that resolution.

67. The General Assembly, at its forty-second session, adopted resolution 42/47 on 30 November 1987, in which it approved a plan of activities for the period 1990-1993, the second half of the Second Decade.

68. At its forty-seventh session, the General Assembly adopted resolution 47/77 on 2 November 1992, in which it took note of the report of the Secretary-General on the implementation of the Programme of Action for the Second Decade to Combat Racism and Racial Discrimination (A/47/432) and requested him to prepare a draft programme of action for the third decade and to submit it to the General Assembly at its forty-eighth session, taking into account, inter alia, the elements of the Programme of Action for the Second Decade that had not yet been implemented.

69. In the same resolution, the Assembly urged all Governments to take all necessary measures to combat new forms of racism, in particular by ongoing adjustment of the methods used to combat them; appealed to all Governments and to international and non-governmental organizations to increase and intensify their activities to combat racism, racial discrimination and apartheid and to provide relief and assistance to the victims of those evils; requested the Secretary-General to continue to accord special attention to the situation of migrant workers and members of their families and to include regularly in his reports all information on such workers; called upon all Member States to consider signing and ratifying or acceding to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families as a matter of priority, in view of its possible early entry into force; requested the Secretary-General to continue the study on the effects of racial discrimination on the children of minorities, in particular those of migrant workers, in the field of education, training and employment, and to submit, inter alia, specific recommendations for the implementation of measures to combat the effects of that discrimination.

70. The Assembly also requested the Secretary-General to revise and finalize the draft model legislation for the guidance of Governments in the enactment of further legislation against racial discrimination in the light of comments made by members of the Committee on the Elimination of Racial Discrimination at its fortieth and forty-first sessions and to publish and distribute the text as soon as possible; regretted that most of the activities scheduled for the period 1992-1993 had not been implemented because of lack of adequate resources and called upon the international community to provide the Secretary-General with appropriate financial resources for efficient action against racism and racial discrimination; requested the Secretary-General to accord the highest priority to activities of the programme of action for the third decade to combat racism and racial discrimination, aiming at monitoring the transition from apartheid to a non-racist society in South Africa.

71. At its forty-fourth session, the Sub-Commission, in its resolution 1992/5, took note of the report of the Secretary-General (E/CN.4/Sub.2/1992/11) submitted pursuant to its resolution 1991/2, decided to submit that report to the Commission on Human Rights at its forty-ninth session and recommended that the Commission on Human Rights appoint a thematic special rapporteur to address the issue of contemporary forms of racism, racial discrimination and xenophobia that occur in any part of the world.

72. The Commission, at its forty-ninth session, in its resolution 1993/11, inter alia, recommended that activities such as those contained in the report of the Secretary-General (A/42/432) be undertaken during the third decade to combat racism and racial discrimination and reviewed at mid-term; requested the Secretary-General, in preparing the draft programme of action for the third decade, to accord the highest priority to activities aimed at monitoring the transition from apartheid to a non-racist society in South Africa; and recommended that the activities scheduled for the period 1992-1993 that had not been implemented because of lack of adequate resources be included in the draft programme of action for the third decade, along with the other proposed activities contained in the annex to resolution 1993/11, and given the highest priority.

73. In its resolution 1993/20, the Commission, inter alia, decided, in particular in the light of recent trends, to appoint, for a three-year period, a thematic special rapporteur on contemporary forms of racism, racial discrimination and xenophobia and related intolerance, and requested the special rapporteur to report thereon to the Commission on an annual basis, beginning at its fiftieth session.

Sub-item (b) Adverse consequences for the enjoyment of human rights of political, military, economic and other forms of assistance given to the racist regime of South Africa

74. This question has been considered by the Sub-Commission since its twenty-sixth session when, in resolution 3 (XXVI) of 19 September 1973, it affirmed the importance of evaluating the consequences for the enjoyment of human rights of assistance to the colonial and racist regimes of southern Africa. At its fifty-sixth session, in 1974, the Economic and Social Council approved the decision of the Commission on Human Rights to authorize the Sub-Commission to appoint a special rapporteur on this issue (resolution 1864 (LVI)). Since then, the Sub-Commission, the Commission on Human Rights and the General Assembly have regularly examined this question at various sessions and have adopted a number of resolutions pertaining thereto. Particular reference may be made to: (a) resolution 1 (XXX) of 26 August 1977, by which the Sub-Commission, in implementation of

Commission on Human Rights resolution 7 (XXXIII) of 4 March 1977, invited Mr. Ahmed Khalifa, the Special Rapporteur on the question, to prepare the necessary material for a provisional general list identifying those whose activities constituted assistance to the colonial and racist regimes in southern Africa; (b) Sub-Commission resolutions 2 (XXXIII) of 2 September 1980 and 6 (XXXIV) of 9 September 1981 and resolutions 1982/16, 1983/6, 1984/4, 1985/3, 1987/7, 1988/3, 1989/18, 1990/3 and 1991/1 in which Mr. Khalifa was invited to continue, subject to annual review, to update the list and submit it through the Sub-Commission to the Commission.

75. At its forty-fourth session, in its resolution 1992/6, the Sub-Commission, having considered the updated report submitted by the Special Rapporteur (E/CN.4/Sub.2/1992/12 and Add.1) and noting the statement by the Special Rapporteur that, in the light of recent events, the continued updating of the list would no longer serve the purpose for which it was intended, expressed its gratitude to Mr. Ahmed Khalifa for his considerable contribution to the cause of eliminating the policy of apartheid, and especially for the immense role played by the annual updated lists, and recommended that a special rapporteur be appointed from among the members of the Sub-Commission to report on the progress towards democracy, equality and social justice in South Africa.

76. At its forty-ninth session, the Commission, in its resolution 1993/18, expressed its appreciation to the Special Rapporteur of the Sub-Commission for his updated report. In its resolution 1993/19, the Commission recommended the Economic and Social Council to authorize the Sub-Commission to entrust Ms. Judith Sefi Attah with the task of presenting annually a report on the transition to democracy in South Africa, including:

(a) Steps taken in accordance with international human rights instruments to prevent violence between different groups in South Africa;

(b) Steps taken to investigate the alleged involvement of the South African security forces in fomenting violence and how that problem was being addressed;

(c) Steps taken to ensure equal political participation for all South Africans, including those removed under the apartheid system to the so-called homelands;

(d) Steps taken to ensure the enjoyment by all South Africans, without discrimination, of economic and social rights;

(e) An analysis of the obstacles preventing the democratization of South Africa and ways and means of eliminating them.

77. At the present session, the Sub-Commission will have before it Ms. Attah's preliminary report (E/CN.4/Sub.2/1993/11).

78. With respect to the present item, the attention of the Sub-Commission is also drawn to the following resolutions and decisions adopted by the General Assembly at its forty-seventh session:

47/78 Status of the International Convention on the Elimination of All Forms of Racial Discrimination

47/79 Report of the Committee on the Elimination of Racial Discrimination

47/80 "Ethnic cleansing" and racial hatred

47/426 Elimination of racism and racial discrimination

47/427 Adverse consequences for the enjoyment of human rights of political, military, economic and other forms of assistance given to the racist and colonialist regime of South africa.

Item 6. Question of the violation of human rights and fundamental freedoms, including policies of racial discrimination and segregation and of apartheid, in all countries, with particular reference to colonial and other dependent countries and territories: report of the Sub-Commission under Commission on Human Rights resolution 8 (XXIII)

79. By resolution 8 (XXIII) of 16 March 1967, the Commission on Human Rights decided to give annual consideration to the item entitled "Question of violations of human rights and fundamental freedoms, including policies of racial discrimination and segregation and of apartheid, in all countries, with particular reference to colonial and other dependent countries and territories". In paragraph 2 of that resolution, the Commission requested the Sub-Commission to prepare a report containing information on violations of human rights and fundamental freedoms from all available sources for the use of the Commission. The Secretary-General was requested, in paragraph 3, to provide assistance and facilities to the Sub-Commission in accomplishing its task. In paragraph 6, the Commission invited the Sub-Commission to bring to the attention of the Commission any situation which it had reasonable cause to believe revealed a consistent pattern of violations of human rights and fundamental freedoms in any country, including policies of racial discrimination, segregation and apartheid, with particular reference to colonial and other dependent territories.

80. The Economic and Social Council, in resolution 1235 (XLII) of 6 June 1967, welcomed the decision of the Commission to give annual consideration to the item and concurred with the requests for assistance addressed to the Sub-Commission and the Secretary-General in Commission resolution 8 (XXIII). The Council authorized the Commission and the Sub-Commission to examine information relevant to gross violations of human rights and fundamental freedoms contained in the communications listed by the Secretary-General pursuant to Economic and Social Council resolution 728 F (XXVIII) of 30 July 1959, and further authorized the Commission to make a thorough study of situations which revealed a consistent pattern of violations of human rights.

Situation in the Palestinian and other Arab territories occupied by Israel

81. In resolution 1992/10, the Sub-Commission, at its forty-fourth session, requested the Secretary-General to provide it, at its forty-fifth session, with an updated list of reports, studies, statistics and other documents relating to the question of Palestine and other occupied Arab territories, with the texts of the most recent relevant United Nations decisions and resolutions, and the report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and other Arabs of the Occupied Territories, and with all other information relevant to the implementation of the resolution.

82. At its forty-ninth session, the Commission adopted resolutions 1993/1, entitled "Human rights in the occupied Syrian Golan", 1993/2 A and B, entitled "Question of the violation of human rights in the occupied Arab territories, including Palestine", 1993/3, entitled "Israeli settlements in the occupied Arab territories", and 1993/4, entitled "Situation in occupied Palestine".

83. The attention of the Sub-Commission is also drawn to General Assembly resolution 47/70 of 14 December 1992, entitled "Report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories".

84. At the present session, the Sub-Commission will have before it a note by the Secretary-General (E/CN.4/Sub.2/1993/12).

Situation of human rights in the Islamic Republic of Iran

85. In its resolution 1992/15, the Sub-Commission decided to consider further the situation of human rights in the Islamic Republic of Iran, including the situation of minority groups such as the Baha'i, at its forty-fifth session. It requested the Secretary-General to inform the Sub-Commission at its forty-fifth session of relevant reports by other special rapporteurs or bodies in the field of human rights, as well as of steps which had been or were being taken by the General Assembly and the Commission on Human Rights to prevent violations of human rights in the Islamic Republic of Iran.

86. The Commission on Human Rights, at its forty-ninth session, adopted resolution 1993/62 in which it decided to extend the mandate of the Special Representative for a further year and requested him to submit an interim report to the General Assembly at its forty-eighth session on the human rights situation in the Islamic Republic of Iran, including the situation of minority groups, such as the Baha'is, and to report to the Commission at its fiftieth session.

87. At the present session, the Sub-Commission will have before it a note by the Secretary-General (E/CN.4/Sub.2/1993/13).

Situation in East Timor

88. In its resolution 1992/20, the Sub-Commission decided to review the situation in East Timor at its forty-fifth session and to this end requested the Secretariat to transmit to it all available information concerning the human rights situation in the territory.

89. The Commission, at its forty-ninth session, having examined the report of the Secretary-General (E/CN.4/1993/49), adopted resolution 1993/97, in which it urged the Government of Indonesia to invite the Special Rapporteur on the question of torture, the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Working Group on Arbitrary Detention and the Working Group on Enforced or Involuntary Disappearances to visit East Timor and to facilitate the discharge of their mandates. It also decided to consider the situation in East Timor at its fiftieth session on the basis of the reports of the Special Rapporteurs and Working Groups and that of the Secretary-General, which would include an analytical compilation of all information received from, inter alia, Governments and intergovernmental and non-governmental organizations.

90. At the present session, the Sub-Commission will have before it a note by the secretariat (E/CN.4/Sub.2/1993/14).

Other matters

91. In discussing this item, the Sub-Commission may wish to take into account the following resolutions and decisions adopted by the Sub-Commission at its forty-fourth session, by the General Assembly at its forty-seventh session, and by the Commission on Human Rights at its forty-ninth session, in addition to those referred to in the foregoing paragraphs:

Sub-Commission (forty-fourth session)

Resolutions

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|---|---|
| 1992/9 | Situation in South Africa |
| 1992/11 | Situation of human rights in Somalia |
| 1992/12 | Support for the restoration of democracy in Peru |
| 1992/13 | Situation of human rights in El Salvador |
| 1992/14 | Forced evictions |
| 1992/16 | Situation of human rights in Haiti |
| 1992/17 | Situation in Cambodia |
| 1992/18 | Situation of human rights in Guatemala |
| 1992/19 | Detention on Bougainville |

Decisions

| | |
|---|---|
| 1992/103 | Situation of human rights in Yugoslavia |
| 1992/106 | Humanitarian situation in Iraq |

General Assembly (forty-seventh session)

| | |
|---|---|
| 47/20 | The situation of democracy and human rights in Haiti |
| 47/115 | Situation of human rights in Estonia and Latvia |
| 47/139 | Situation of human rights in Cuba |
| 47/140 | Situation of human rights and fundamental freedoms in El Salvador |
| 47/141 | Situation of human rights in Afghanistan |
| 47/142 | The situation in the Sudan |
| 47/143 | Human rights in Haiti |
| 47/144 | Situation in Myanmar |

47/145 Situation of human rights in Iraq

47/146 Situation of human rights in the Islamic Republic of Iran

47/147 Situation of human rights in the territory of the former Yugoslavia

Commission on Human Rights (forty-ninth session)

Resolutions

1993/7 Situation in human rights in the territory of the former Yugoslavia

1993/8 The rape and abuse of women in the territory of the former Yugoslavia

1993/9 Situation of human rights in South Africa

1993/60 Situation of human rights in the Sudan

1993/61 Situation of human rights in Zaire

1993/62 Situation of human rights in the Islamic Republic of Iran

1993/63 Situation of human rights in Cuba

1993/65 Situation of human rights in Albania

1993/66 Situation of human rights in Afghanistan

1993/67 Situation of human rights in southern Lebanon

1993/68 Situation of human rights in Haiti

1993/69 Situation in Equatorial Guinea

1993/72 Situation of human rights in Romania

1993/73 Situation of human rights in Myanmar

1993/74 Situation of human rights in Iraq

1993/75 Situation of human rights in Togo

1993/76 Human rights violations in Bougainville

1993/77 Forced evictions

1993/93 Human rights in El Salvador

Decisions

1993/109 Question of human rights in Cyprus

1993/110 Situation in China

1993/111 Detention in Bougainville

Item 7. The new international economic order and the promotion of human rights

92. The Sub-Commission, at its thirty-first session, by decision 6 (XXXI) of 15 September 1978, added to the agenda for its thirty-second session an item entitled "The new international economic order and the promotion of human rights". In its resolution 1985/34, the Sub-Commission decided to consider this item on a biennial basis. In its resolution 1989/1, the Sub-Commission decided to consider this item on an annual basis.

93. No decision was adopted under this item by the Sub-Commission at its forty-fourth session.

Sub-item (a) The role and equal participation of women in development

94. The Sub-Commission first proposed to include the topic "Prevention of discrimination and protection of women" as a sub-item on its agenda during its thirty-seventh session, in 1984 (E/CN.4/Sub.2/1984/SR.39).

95. At its thirty-ninth session, the Sub-Commission adopted resolution 1987/26 entitled "The role and equal participation of women in development", in which it decided to consider, at its forty-first and future sessions, and in connection with the item on its agenda entitled "The new international economic order and the promotion of human rights", a sub-item entitled "The role and equal participation of women in development". The Sub-Commission also requested the Secretary-General to make available to it, at each of its future sessions, the reports of the Committee on the Elimination of Discrimination against Women and of the Commission on the Status of Women.

96. At the present session, the Sub-Commission will have before it the most recent reports of the Committee on the Elimination of Discrimination against Women and of the Commission on the Status of Women.

Item 8. The realization of economic, social and cultural rights

97. The Commission, at its forty-third session, in resolution 1987/19, requested the Sub-Commission to examine the conclusions and recommendations of the report of the Commission entitled The Realization of Economic, Social and Cultural Rights: Problems, Policies, Progress (United Nations publication, Sales No. 75.XIV.2) and to submit to the Commission, at its forty-fourth session, a proposed timetable for updating those conclusions and recommendations, taking into account the activities of the specialized agencies, other United Nations bodies and organs, other intergovernmental organizations, Governments and non-governmental organizations, and keeping in mind the importance of maintaining a specific human rights focus in examining the issues raised in that report. The Commission also requested the Sub-Commission to consider, in accordance with its resolution 1983/35, the preparation of a study on the impact on human rights of the policies and practices of the major international financial institutions, most notably the International Monetary Fund and the World Bank.

98. The Sub-Commission, at its thirty-ninth session, in resolution 1987/29 A, recommended to the Commission on Human Rights and the Economic and Social Council, in response to Commission resolution 1987/19, that the Sub-Commission be authorized to appoint, from its members to be elected in 1988, a special rapporteur to study problems, policies and progressive measures relating to a more effective realization of economic, social and cultural rights; the special rapporteur would be requested to present a substantial progress report to the Sub-Commission at its forty-first session. The Commission, in its resolution 1988/22, invited the Sub-Commission to appoint a special rapporteur for that purpose.

99. At its fortieth session, the Sub-Commission, in its resolution 1988/33, decided to entrust Mr. Danilo Türk with a study of problems, policies and progressive measures relating to the more effective realization of economic, social and cultural rights, and recommended that the Special Rapporteur should take account of the guidelines and issues contained in resolution 1987/29 A of the Sub-Commission. The resolution of the Sub-Commission was endorsed by Commission resolution 1989/13 and Economic and Social Council decision 1989/138.

100. In its resolution 1990/16, the Sub-Commission, having considered the progress report of the Special Rapporteur (E/CN.4/Sub.2/1990/19), endorsed the preliminary recommendations contained therein, requested the Special Rapporteur to prepare a second progress report and encouraged him to establish direct contact with international financial institutions as well as United Nations agencies utilizing social and economic data and indicators relevant to his study. The Sub-Commission invited the Commission on Human Rights, at its forty-seventh session, to consider requesting the Secretary-General to organize a seminar under the United Nations programme of human rights activities in 1992-1993 for discussion of appropriate indicators to measure achievements in the progressive realization of economic, social and cultural rights.

101. In its resolution 1991/18 and 1992/10, the Commission requested the Secretary-General to organize a seminar of experts as referred to in Commission resolution 1990/16.

102. In its resolution 1991/27, the Sub-Commission, at its forty-third session, expressed its appreciation for the second progress report of the Special Rapporteur (E/CN.4/Sub.2/1991/17) and requested the Special Rapporteur to submit his final report at its forty-fourth session.

103. In its resolution 1992/29, the Sub-Commission, at its forty-fourth session, expressed its deep appreciation to the Special Rapporteur, Mr. Danilo Türk, for his final report on the realization of economic, social and cultural rights (E/CN.4/Sub.2/1992/16), endorsed the recommendations contained in paragraphs 202 to 246 of that report and requested the Secretary-General to ensure the widest possible distribution of the reports of the Special Rapporteur throughout the United Nations system, especially among programmes and agencies with mandates in the economic, social and cultural fields. The Sub-Commission decided to consider, at its forty-fifth session, the possibility of examining in a future study the subject of income distribution and the realization of economic, social and cultural rights and the issue of the justiciability of economic, social and cultural rights. The Secretary-General was requested to inform the Sub-Commission, at its forty-fifth session, of the progress achieved in the implementation of the recommendation contained in paragraph 217 of the final report of the Special Rapporteur relating to the activities of the Centre for Human Rights.

104. At the present session, the Sub-Commission will have before it the report of the Secretary-General (E/CN.4/Sub.2/1993/18 and Add.1).

105. The Sub-Commission will also have before it the report of the Seminar on apropriate indicators to measure achievements in the realization of economic, social and cultural rights (A/CONF. 157/PC/73) held at Geneva from 25 to 29 January 1993 in follow-up to one of the recommendations of the Special Rapporteur.

The right to adequate housing

106. At its forty-third session, the Sub-Commission adopted resolution 1991/26 entitled "Promoting the realization of the right to adequate housing", in which it entrusted Mr. Rajindar Sachar with the task of producing a working paper on the right to adequate housing, with a view to determining how best to further both the recognition and the enforcement of this right. The Sub-Commission also requested Mr. Sachar to examine the utility of adopting an international declaration or convention on the right to adequate housing and to examine the specific contents of this right, and to submit his working paper to the Sub-Commission at its forty-fourth session.

107.At its forty-fourth session, the Sub-Commission, in its resolution 1992/26, having taken note of the preliminary conclusions contained in the working paper (E/CN.4/Sub.2/1992/15), decided to appoint Mr. Rajindar Sachar as Special Rapporteur on promoting the realization of the right to adequate housing and requested the Special Rapporteur to carry out a two-year study on that issue.

108. By its decision 1993/103, the Commission on Human Rights endorsed the decision of the Sub-Commission.

109. At the present session, the Sub-Commission will have before it a progress report prepared by the Special Rapporteur (E/CN.4/Sub.2/1993/15).

Human rights and extreme poverty

110. At its forty-sixth session, the Commission on Human Rights adopted resolution 1990/15, in which it reaffirmed that extreme poverty and exclusion from society constituted violations of human dignity and that urgent national and international action was therefore required to eliminate them; it requested the Sub-Commission, when giving attention, in accordance with its resolution 1989/20, to problems, policies and progressive measures relating to the more effective realization of economic, social and cultural rights, to examine the question of extreme poverty and exclusion from society in greater depth and to carry out a specific study of this question.

111. By its decision 1990/119, the Sub-Commission decided to request Mr. Eduardo Suescún Monroy to prepare the method and plan of work for the study on human rights and extreme poverty. At its forty-third session, the Sub-Commission had before it the report prepared by Mr. Eduardo Suescún Monroy (E/CN.4/Sub.2/1991/18).

112. The Commission, at its forty-eighth session, in resolution 1992/11, requested the Sub-Commission to undertake a study on the question of extreme poverty.

113. At its forty-fourth session, the Sub-Commission, in its resolution 1992/27, decided to appoint Mr. Leandro Despouy as Special Rapporteur on the question of human rights and extreme poverty and requested him to submit a preliminary report to the Sub-Commission at its forty-fifth session.

114. In its resolution 1993/13, the Commission, at its forty-ninth session, endorsed the Sub-Commission's decision and invited the Special Rapporteur to give special attention to the following aspects:

(a) The effects of extreme poverty on the enjoyment and exercise of the human rights and fundamental freedoms of those affected by it;

(b) Efforts by the poorest themselves to exercise their rights and participate fully in the development of the society in which they live;

(c) Conditions in which the poorest can convey their experiences and ideas and become partners in the enjoyment of human rights;

(d) Means of promoting a better understanding of the experiences and ideas of the poorest and those committed to working alongside them. In addition, the Commission invited the Special Rapporteur, in his report to the Sub-Commission at its forty-fifth session, to consider the possibility of organizing a seminar with a view to furthering reflection on the topic "Extreme poverty and denial of human rights" and to make suggestions in this regard.

115. At the present session, the Sub-Commission will have before it the preliminary report of the Special Rapporteur on human rights and extreme poverty (E/CN.4/Sub.2/1993/16).

Human rights and population transfer

116. In its resolution 1990/17, the Sub-Commission decided to consider the human rights dimensions of population transfer, including the policy and practice of the implantation of settlers and settlements, at its future sessions under the agenda item "The realization of economic, social and cultural rights".

117. In its resolution 1991/28, the Sub-Commission, at its forty-third session, recognized that population transfer affected the basic human rights and freedoms of the peoples concerned, including the original inhabitants, the people removed and the settlers, and decided to include the question of the human rights dimensions of population transfers, including the implantation of settlers and settlements, in its future work programme with a view to considering further effective action on this matter, taking into account the working paper submitted by Mrs. Christy Ezim Mbonu (E/CN.4/Sub.2/1991/47) and such other relevant materials as might be provided to the Secretary-General by non-governmental organizations or in the reports of other United Nations bodies.

118. At its forty-fourth session, in resolution 1992/28, the Sub-Commission entrusted Mr. Awn Shawkat Al-Khasawneh and Mr. Ribot Hatano, as Special Rapporteurs, with preparing a preliminary study on the human rights dimensions of population transfer, including the implantation of settlers and settlements. The Special Rapporteurs were requested to examine, in the preliminary study, the policy and practice of population transfer, in the broadest sense, with a view to outlining the issues to be analysed in further reports, in particular the legal and human rights implications of population transfer and the application of existing human rights principles and instruments. The Sub-Commission encouraged the Special Rapporteurs, in preparing the preliminary study, to examine the widest possible variety of sources, including information received from non-governmental and other relevant organizations, and requested them to submit the preliminary study to the Sub-Commission at its forty-fifth session, for consideration of, inter alia, how most effectively to proceed and take effective further action on the issue of population transfer.

119. By its decision 1993/104, the Commission endorsed the Sub-Commission's decision to entrust Mr. Al-Khasawneh and Mr. Hatano, as Special Rapporteurs, with preparing a study on the human rights dimensions of population transfer, including the implantation of settlers and settlements.

120. At the present session, the Sub-Commission will have before it the preliminary study prepared by the Special Rapporteurs (E/CN.4/Sub.2/1993/17).

Other matters

121. With regard to the issues under this item, the attention of the Sub-Commission is also drawn to General Assembly resolutions 47/123, entitled "Right to development" and 47/134, entitled "Human rights and extreme poverty".

122. The Sub-Commission may also wish to note the following resolutions of the Commission adopted at its forty-ninth session, in addition to those referred to in the foregoing paragraphs:

1993/12 Effect on the full enjoyment of human rights of the economic adjustment policies arising from foreign debt and, in particular, on the implementation of the Declaration on the Right to Development.

1993/13 Human rights and extreme poverty

1993/14 Question of the realization in all countries of the economic, social and cultural rights contained in the Universal Declaration of Human Rights and in the International Covenant on Economic, Social and Cultural Rights, and study of special problems which the developing countries face in their efforts to achieve these human rights

1993/21 Respect for the right of everyone to own property alone as well as in association with others

1993/22 The right to development

1993/70 Human rights and mass exoduses

1993/77 Forced evictions

1993/95 Internally displaced persons

Item 9. Communications concerning human rights: report of the Working Group on Communications established under Sub-Commission resolution 2 (XXIV) in accordance with Economic and Social Council resolution 1503 (XLVIII)

123. In its resolution 1503 (XLVIII) of 27 May 1970, the Economic and Social Council authorized the Sub-Commission to appoint a working group of not more than five of its members to meet annually and consider all communications received by the Secretary-General under Council resolution 728 F (XXVIII) of 30 July 1959 with a view to bringing to the attention of the Sub-Commission those communications, together with replies of Governments, if any, which appear to reveal a consistent pattern of gross and reliably attested violations of human rights and fundamental freedoms. As an initial step in the implementation of Council resolution 1503 (XLVIII), the Sub-Commission adopted provisional procedures for dealing with the question of admissibility of communications in resolution 1 (XXIV) of 13 August 1971. The Working Group on Communications was established by Sub-Commission resolution 2 (XXIV) of 16 August 1971. It has met prior to each session of the Sub-Commission and presented to the Sub-Commission a confidential report.

124. Under the terms of Council resolution 1503 (XLVIII), the Sub-Commission is called upon to consider at private meetings the communications brought before it in accordance with the decision of a majority of the members of the Working Group on Communications and any replies of Governments relating thereto, and other relevant information, with a view to determining whether to refer to the Commission on Human Rights particular situations which appear to reveal a consistent pattern of gross and reliably attested violations of human rights requiring consideration by the Commission. Pursuant to paragraph 8 of Council resolution 1503 (XLVIII), the Sub-Commission communicates its conclusions on the item confidentially to the Commission.

125. By decision 4 (XXXIV) of 3 March 1978, the Commission decided that the Sub-Commission and its Working Group on Communications should thenceforth have access to the records of the closed meetings of the Commission covering its examination of situations referred to it under Council resolution 1503 (XLVIII), together with all other confidential documents relating thereto that had been before the Commission.

126. By decision 3 (XXXIV) of 3 March 1978, the Commission decided that, when dealing with communications under Council resolution 1503 (XLVIII) and situations which the Commission had decided to keep under review, it would invite the Chairman-Rapporteur of the Working Group on Communications to be present during the deliberations of the Commission on that item and to take the floor if he or she so wished.

127. A number of procedural steps have been taken at the Commission level with regard to the application of the procedure governed by Council resolution 1503 (XLVIII). Since 1974, the Commission has every year established a working group (Working Group on Situations) to assist it in examining the situations referred to it by the Sub-Commission and to make recommendations thereon to it. By resolution 1990/41, the Economic and Social Council authorized the establishment of the Commission's Working Group on Situations on a permanent basis, instead of the earlier ad hoc basis. The recommendations of the Working Group on Situations are communicated to the Governments directly concerned (see Commission decision 14 (XXXV) of 12 March 1979), which are invited to participate in the meetings of the Commission at which the situations in question are examined (see Commission decisions 5 (XXXIV) of 3 March 1978 and 9 (XXXVI) of 7 March 1980).

128. By decision 1990/112, the Sub-Commission, wishing to modify its decision 1989/102, decided that the Working Group on Communications, acting under paragraph 1 of Council resolution 1503 (XLVIII), should in the future consider only those communications that had been transmitted to the Governments concerned under Council resolution 728 F (XXVIII) not later than 12 weeks prior to the meetings of the Working Group. At its forthcoming session, to be held from 19 to 30 July 1993, the Working Group on Communications will, accordingly, consider communications received and processed by the Secretariat since the last session of the Sub-Commission and forwarded to the Governments concerned not later than 24 April 1993.

129. Since its forty-first session in 1989, the Sub-Commission has voted by secret ballot on all decisions adopted under the procedure governed by Council resolution 1503 (XLVIII). At the forty-first and forty-second sessions, this was done by way of suspending rule 59 of the rules of procedure of the functional commissions of the Economic and Social Council and, at the forty-third and forty-fourth sessions in 1991 and 1992, by reference to Council resolution 1991/32 of 31 May 1991 on the strengthening of the independence of the members of the Sub-Commission.

130. The Sub-Commission's attention is also drawn to paragraph 5 of its last confidential report, which relates to matters kept pending until its forty-fifth session.

131. At the present session, the Sub-Commission will have before it the following documents:

(a) The confidential report of the Working Group on Communications of the Sub-Commission on its meetings from 19 to 30 July 1993;

(b) Relevant documentation referred to in paragraph 5 of the Sub-Commission's last confidential report;

(c) The confidential summary records of the forty-ninth session of the Commission on Human Rights, the text of the Commission's confidential decisions and other documents relating thereto;

(d) Resolutions and decisions adopted by the Council, the Commission and the Sub-Commission that are of relevance to the work of the Sub-Commission under Council resolution 1503 (XLVIII);

(e) Confidential lists of communications compiled by the Secretary-General under Council resolutions 728 F (XXVIII) and 1503 (XLVIII) since the Sub-Commission's forty-fourth session, as well as replies received from Governments during the period July 1992-June 1993.

132. The above-mentioned confidential documents will be handed to the members of the Sub-Commission.

Item 10. The administration of justice and the human rights of detainees

Sub-item (a) Question of the human rights of persons subjected to any form of detention or imprisonment

Annual review

133. In its resolution 7 (XXVII) of 20 August 1974, the Sub-Commission decided to review annually developments concerning the human rights of persons subjected to any form of detention or imprisonment, taking into account any reliably attested information from Governments, specialized agencies, regional intergovernmental organizations and non-governmental organizations in consultative status, provided that such non-governmental organizations acted in good faith and that their information was not politically motivated, contrary to the principles of the Charter of the United Nations.

134. In its resolution 1988/33, paragraph 6, the Commission on Human Rights reminded the Sub-Commission of the request made in its resolution 1987/33 that, when carrying out its annual review of the human rights of persons subjected to any form of detention or imprisonment, it should include in its consideration the work of the Human Rights Committee and the Committee on the Elimination of Racial Discrimination, the developments elsewhere in the human rights programme and the activities within the United Nations programme on crime prevention and control bearing upon the subject, and requested the Secretary-General to continue to make available to the Sub-Commission succinct information on these matters.

135. At its thirty-fourth and subsequent sessions, the Sub-Commission established a sessional working group to consider the question of the human rights of detained persons.

136. In its resolution 1992/31, the Commission, at its forty-eighth session, requested the Sub-Commission to continue its practice of creating a sessional working group on detention to formulate concrete proposals regarding human rights in the administration of justice. It also requested the Sub-Commission to formulate concrete proposals to the Secretary-General regarding the utility and the format of his reports pursuant to Sub-Commission resolution 7 (XXVII) of 20 August 1974 on the question of the human rights of persons subjected to any form of detention or imprisonment.

137. The Working Group on Detention, at its August 1992 session, discussed the question of the synopses of material provided by Governments, specialized agencies and non-governmental organizations in accordance with Sub-Commission resolution 7 (XXVII). In that connection, and in response to the request made by the Commission on Human Rights in paragraph 7 of its resolution 1992/31 of 28 February 1992, the Working Group proposed in its report (E/CN.4/Sub.2/1992/22, para. 13) that the Sub-Commission should suspend consideration of this item and mandate the Working Group on the methods of work of the Sub-Commission to consider the best procedures to be followed and formulate concrete proposals for the Secretary-General on the utility and format of his reports pursuant to Sub-Commission resolution 7 (XXVII).

138. At its forty-ninth session, the Commission, in its resolution 1993/41, requested the Sub-Commission to continue its practice of creating a sessional working group on detention to formulate concrete proposals regarding human rights in the administration of justice. The Commission also requested the Sub-Commission to formulate concrete proposals to the Secretary-General regarding the utility and the format of his reports pursuant to Sub-Commission resolution 7 (XXVII) of 20 August 1974 on the question of the human rights of persons subjected to any form of detention or imprisonment.

139. The attention of the Sub-Commission is also drawn to Commission on Human Rights resolutions 1993/34, entitled "Question of a draft optional protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment", 1993/36, entitled "Question of arbitrary detention", and 1993/40, entitled "Torture and other cruel, inhuman or degrading treatment or punishment".

140. At the present session, the Sub-Commission will have before it a note by the Secretary-General concerning the submission of information pursuant to Sub-Commission resolution 7 (XXVII) (E/CN.4/Sub.2/1993/19) and the report of the sessional Working Group on Detention to the Sub-Commission (E/CN.4/Sub.2/1993/22).

Application of international standards concerning the human rights of detained juveniles

141. In its resolution 1989/31, the Sub-Commission requested the Secretary-General to update the report of the Secretary-General on the incarceration of children under the age of 18 with adult prisoners (E/CN.4/Sub.2/1987/30) and to submit the revision to the Sub-Commission at its forty-second session. In addition, it decided to appoint Mrs. María Concepción Bautista to prepare a report, without financial implications, on the application of international standards concerning the human rights of detained juveniles, in particular the separation of juvenile and adult offenders in penal institutions, detention pending trial, least possible use of institutionalization and the objectives of institutional treatment. At its forty-second session, the Sub-Commission, by its resolution 1990/21, extended the mandate of Mrs. Bautista until its forty-third session. The Special Rapporteur submitted her report (E/CN.4/Sub.2/1991/24) to the Sub-Commission at its forty-third session.

142. In its resolution 1991/16, the Sub-Commission, at its forty-third session, requested the Special Rapporteur to submit to the Sub-Commission, at its forty-fourth session, an updated report containing further information concerning successful efforts to implement international standards, observations relating to practices that are not compatible with relevant international standards, and recommendations concerning measures that should be taken by States and the international community to increase effective recognition and protection of the rights of detained juveniles.

143. At its forty-fourth session, the Sub-Commission, in resolution 1992/25, congratulated the Special Rapporteur, Mrs. Mary Concepción Bautista, on the contents of her final report (E/CN.4/Sub.2/1992/20), and welcomed the proposal by the Secretary-General, contained in his note (E/CN.4/Sub.2/1992/20/Add.1), to organize a meeting of experts on the application of international standards concerning the human rights of detained juveniles.

144. In its resolution 1993/80, the Commission, at its forty-ninth session, also welcomed the proposal by the Secretary-General to organize, within the framework of the programme of human rights activities for 1994, such a meeting of experts.

145. At its present session, the Sub-Commission will have before it the report of the Secretary-General on the results of the meeting of experts on the human rights of detained juveniles (E/CN.4/Sub.2/1993/20).

Privatization of prisons

146. At its forty-first session, by decision 1989/110, the Sub-Commission requested Mr. Miguel Alfonso Martínez to prepare, without financial implications, a working paper containing proposals on the best way for the Sub-Commission to study further the issue of privatization of prisons, and to submit the working paper to the Sub-Commission at its forty-second session.

147. The sessional Working Group on Detention established by the Sub-Commission at its forty-second session decided to postpone consideration of this item until 1991.

148. By its decision 1991/105, the Sub-Commission, at its forty-third session, after having examined the working paper submitted by Mr. Miguel Alfonso Martínez on the issue (E/CN.4/Sub.2/1991/56), decided to request Governments and intergovernmental and non-governmental organizations to submit their views on the matter and to request the Secretary-General to submit to the Sub-Commission at its forty-fourth session a working paper containing a systematic compilation of those views and analytical comments thereon.

149. By its decision 1992/107, the Sub-Commission, at its forty-fourth session, having considered the working paper submitted by the Secretary-General on the issue of the privatization of prisons (E/CN.4/Sub.2/1992/21) and the report of the Working Group on Detention (E/CN.4/Sub.2/1992/22), decided to request Mrs. Claire Palley to prepare, without financial implications, an outline of the possible utility, scope and structure of a special study which might be undertaken on the issue of privatization of prisons, to be submitted to the Working Group on Detention and to the Sub-Commission at its forty-fifth session.

150. The Commission, by its decision 1993/108, endorsed the Sub-Commission's request.

151. At the present session, the Sub-Commission will have before it the outline prepared by Mrs. Palley (E/CN.4/Sub.2/1993/21).

Protection of staff members of the United Nations system

152. The Commission and the Sub-Commission have concerned themselves in recent years with the detention, disappearance and death in detention of United Nations staff members from the point of view of respect for their human rights as laid down in international instruments. Both bodies have asked for reports from the Secretary-General on this subject (Sub-Commission resolution 1987/21 and Commission resolutions 1988/41, 1989/28, 1990/31, 1992/26 and 1993/39).

153. The Sub-Commission at its fortieth session had before it the report on this subject requested in its resolution 1987/21 (E/CN.4/Sub.2/1988/17). At that session, it adopted resolution 1988/9, pursuant to which Mrs. María Concepción Bautista was entrusted with the task of undertaking an examination of the violations of the human rights of staff members of the United Nations system, their families and experts, as well as of the repercussions of those violations on the functioning of United Nations organs and agencies. The Sub-Commission requested that a preliminary report be presented to its forty-first session.

154. At its forty-first session, the Sub-Commission adopted resolution 1989/30 by which it requested the Special Rapporteur to continue to study the subject and to submit an updated version to its forty-second session.

155. At its forty-second session, having considered the updated version of Mrs. Bautista's report (E/CN.4/Sub.2/1990/30), the Sub-Commission adopted resolution 1990/20, by which it invited Mrs. Bautista to submit a final version of the report as well as practical recommendations for the improvement of the protection of personnel of the United Nations system and their families, including experts and consultants.

156. By its resolution 1991/17, the Sub-Commission invited Mrs. Bautista to submit to the Sub-Commission, at its forty-fourth session, a final report.

157. At its forty-fourth session, the Sub-Commission, in resolution 1992/24, expressed its appreciation to the Special Rapporteur, Mrs. Mary Concepción Bautista, for the work she had carried out aimed at improving on a long-term basis the protection of personnel of the United Nations system and their families, as well as of experts and consultants, and expressed its satisfaction at the recommendations contained in the final report of the Special Rapporteur (E/CN.4/Sub.2/1992/19).

158. In its resolution 1993/39, the Commission, at its forty-ninth session, requested the Secretary-General to take steps aimed at ensuring the application without delay of all the recommendations contained in the final report of the Special Rapporteur.

Sub-item (b) Question of human rights and states of emergency

159. In its resolution 10 (XXX) of 31 August 1977, the Sub-Commission expressed its concern at the manner in which certain countries applied the provisions relating to situations known as states of siege or emergency. Convinced that a connection existed between such application and the situation regarding human rights in the said countries, the Sub-Commission considered that a comprehensive study of the implications for human rights of recent developments in that sphere would be conducive to the achievement of the aims pursued by the United Nations in the field of human rights. The comprehensive study was presented by Ms. Nicole Questiaux at the thirty-fifth session of the Sub-Commission (E/CN.4/Sub.2/1982/15).

160. In resolution 1983/18, the Commission requested the Sub-Commission to propose, for the Commission's consideration at its fortieth session, measures designed to ensure respect throughout the world for human rights and fundamental freedoms in situations where states of siege or emergency existed.

161. At the Sub-Commission's request (resolutions 1983/30 and 1984/27), the Economic and Social Council, in its resolution 1985/37, authorized the Sub-Commission to appoint a special rapporteur to carry out the work referred to in Commission resolution 1983/18 and Sub-Commission resolution 1983/30 for the purpose of (a) drawing up and updating annually a list of countries which proclaim or terminate a state of emergency; and (b) submitting an annual special report to the Commission containing reliably attested information on compliance with the rules, internal and international, guaranteeing the legality of the introduction of a state of emergency. In its resolution 1985/32, the Sub-Commission requested Mr. Leandro Despouy, the Special Rapporteur, to present his first report to the Sub-Commission at its thirty-ninth session.

162. The Sub-Commission, at its forty-fourth session, had before it the fifth annual report and list of States prepared by the Special Rapporteur (E/CN.4/Sub.2/1992/23). In its resolution 1992/22, it invited the Special Rapporteur to continue his work and to submit to the Sub-Commission, at its forty-fifth session, the next annual report and list updated on the basis of information received. The Sub-Commission also invited the Special Rapporteur to continue his work on the draft guidelines for the development of legislation on states of emergency and, in particular, to examine the question of non-derogable rights.

163. The Commission, in its resolution 1993/42, recommended to the Economic and Social Council the endorsement of the Sub-Commission's request.

164. At the present session, the Sub-Commission will have before it the next annual report and list prepared by the Special Rapporteur (E/CN.4/Sub.2/1993/23).

Sub-item (c) Individualization of prosecution and penalties, and repercussions of violations of human rights on families

165. In resolution 26 (XXXVI) of 11 March 1980, the Commission on Human Rights called upon Governments to observe the strict application of the principle that no one can be prosecuted or persecuted merely because of his connection, particularly family connection, with a suspect, an accused person or a person who has been convicted. The Sub-Commission was requested to study the question and to submit recommendations to the Commission for its consideration. The question was discussed at the thirty-seventh session of the Sub-Commission (E/CN.4/1985/3-E/CN.4/Sub.2/1984/43, paras. 235-237) but no action was taken.

Sub-item (d) The right to a fair trial

166. The Sub-Commission, at its forty-first session, adopted resolution 1989/27 in which it decided to appoint Mr. Stanislav Chernichenko and Mr. William Treat as rapporteurs to prepare a report on existing international norms and standards pertaining to the right to a fair trial for submission to the Working Group on Detention and to the Sub-Commission.

167. Having considered the report of the two Special Rapporteurs (E/CN.4/Sub.2/1990/34), the Sub-Commission, by resolution 1990/18, recommended to the Commission that it ask the Economic and Social Council to endorse its decision to entrust Messrs. Chernichenko and Treat with the preparation of a study entitled "The right to a fair trial: current recognition and measures necessary for its strengthening". The Sub-Commission's decision was endorsed by the Commission in its resolution 1991/43 and the Economic and Social Council in its decision 1991/262.

168. The Special Rapporteurs submitted their third report (E/CN.4/Sub.2/1992/24 and Add. 1-3), to the Sub-Commission and the Commission, at its forty-fourth and forty-ninth sessions respectively.

169. By its resolution 1992/21, the Sub-Commission, at its forty-fourth session, requested the Special Rapporteurs to submit a fourth report analysing national practices in regard to the right to a fair trial, including information received in response to questionnaires, to the Sub-Commission at its forty-fifth session. At its forty-ninth session, the Commission, by its decision 1993/106, endorsed the Sub-Commission's request.

170. At the present session, the Sub-Commission will have before it the fourth report of the Special Rapporteurs (E/CN.4/Sub.2/1993/24 and Add.1-2).

Item 11. Independence and impartiality of the judiciary, jurors and assessors and the independence of lawyers

171. By its decision 1980/124, the Economic and Social Council authorized the Sub-Commission to entrust Mr. L.M. Singhvi with the preparation of a report on the independence and impartiality of the judiciary, jurors and assessors, and the independence of lawyers.

172. The Special Rapporteur accordingly submitted preliminary and progress reports on the subject in 1980, 1981 and 1982 (E/CN.4/Sub.2/L.731, E/CN.4/Sub.2/481 and Add.1, and E/CN.4/Sub.2/1982/23). He submitted his final report on the subject (E/CN.4/Sub.2/1985/18 and Add.1-6) to the Sub-Commission at its thirty-eighth session and drew attention, in particular, to the draft declaration on the independence of justice (E/CN.4/Sub.2/1985/18/Add.5/Rev.1).

173. The Special Rapporteur submitted to the Sub-Commission at its fortieth session a report containing comments and suggestions on the draft declaration (E/CN.4/Sub.2/1988/20) and a revised version of the draft declaration (E/CN.4/Sub.2/1988/20/Add.1 and Add.1/Corr.1).

174. At its forty-first session, the Sub-Commission adopted resolution 1989/22 on the subject, in which it invited Mr. Louis Joinet to prepare a working paper on means in the area of monitoring by which the Sub-Commission could assist in ensuring respect for the independence of the judiciary and the protection of practising lawyers, as requested in Commission resolution 1989/32.

175. In its resolution 1990/33, the Commission on Human Rights, at its forty-sixth session, endorsed Sub-Commission resolution 1989/22 and requested the Sub-Commission to study the working paper with a view to recommending to the Commission any initiatives which could be taken to effectuate the implementation of the Basic Principles on the Independence of the Judiciary and the protection of practising lawyers.

176. At its forty-second session, the Sub-Commission considered the working paper prepared by Mr. Joinet (E/CN.4/Sub.2/1990/35) and decided, in its resolution 1990/23, to entrust him with the preparation of a report:

(a) To make a system-wide analysis of the advisory service and technical assistance programmes of the United Nations as regards the independence of the judiciary and the protection of practising lawyers, propose means by which the cooperation between the programmes could be enhanced, and set forth guidelines and criteria to be taken into account in the provision of these services;

(b) To bring to the attention of the Sub-Commission information on legislative or judicial measures or other practices which have served to strengthen or to undermine the independence of the judiciary and the protection of practising lawyers in accordance with United Nations standards.

177. The Sub-Commission's decision was endorsed by the Commission in its resolution 1991/39 and the Economic and Social Council in its decision 1991/241.

178. In its resolution 1991/35, the Sub-Commission, at its forty-third session, taking note of the report prepared by Mr. Louis Joinet (E/CN.4/Sub.2/1991/30 and Add.1-4), decided to entrust Mr. Joinet with the preparation of a report to bring to the attention of the Sub-Commission information on practices and measures which have served to strengthen or to weaken the independence of the judiciary and the legal profession in accordance with United Nations standards. The Sub-Commission's decision was endorsed by the Commission, at its forty-eighth session, in its resolution 1992/33.

179. In its resolution 1992/38, the Sub-Commission, at its forty-fourth session, took note of the report prepared by the Special Rapporteur (E/CN.4/Sub.2/1992/25 and Add.1) and decided to entrust him with the preparation of a report:

(a) To bring to the attention of the Sub-Commission information on practices and measures which have served to strengthen or to weaken the independence of the judiciary and the protection of practising lawyers in accordance with United Nations standards;

(b) To propose specific recommendations regarding the independence of the judiciary and the protection of practising lawyers to be taken into account in the advisory services and technical assistance programmes and projets of the United Nations and, in that regard, to follow up the recommendations contained in his first report (E/CN.4/Sub.2/1991/30 and Add.1-4);

c) To examine the ways and means of enhancing cooperation and avoiding overlapping and duplication in the work of the Commission on Crime Prevention and Criminal Justice and that of the Sub-Commission on Prevention of Discrimination and Protection of Minorities;

(d) To elaborate on the recommendations contained in his report (E/CN.4/Sub.2/1992/25/Add.1).

180. The Sub-Commission's decision was endorsed by the Commission in its resolution 1993/44.

181. At its present session, the Sub-Commission will have before it the report of the Special Rapporteur (E/CN.4/Sub.2/1993/25).

## Item 12. Human rights and disability

182. In its resolution 1984/20, the Sub-Commission decided to inscribe on the agenda of its thirty-eighth session an item entitled "Human rights and disability". In the same resolution, the Sub-Commission decided to appoint Mr. Leandro Despouy as Special Rapporteur to undertake the comprehensive study requested by the Economic and Social Council in its resolution 1984/26.

183. In its resolution 1985/34, the Sub-Commission decided to consider this item on a biennial basis starting at its fortieth session.

184. At its forty-third session, the Sub-Commission considered and approved the final report of the Special Rapporteur (E/CN.4/Sub.2/1991/31). The Sub-Commission adopted resolution 1991/19, in which, having expressed its satisfaction at the recommendations and proposals submitted to the Sub-Commission by the Special Rapporteur with a view to encouraging States and intergovernmental organizations to undertake concrete measures to guarantee to the disabled the full enjoyment of their human rights, it welcomed the recommendations contained in his final report, in particular those relating to the implementation of the human rights of disabled persons.

185. The Commission, in its resolution 1992/48, invited human rights treaty-monitoring bodies, notably the Committee on Economic, Social and Cultural Rights and the Human Rights Committee, to monitor the compliance of States with their commitments under the relevant human rights instruments in order to ensure the full enjoyment of those rights by disabled persons. In its resolution 1993/29, the Commission reiterated that invitation.

186. In its resolution 1992/48, the Commission requested the Secretary-General to issue the final report of the Special Rapporteur as a United Nations publication in all official languages. The final report was published in Study Series 6 under the title "Human rights and disabled persons".

187. With respect to the present item, the attention of the Sub-Commission is also drawn to General Assembly resolutions 47/3 of 14 October 1992, entitled "International Day of Disabled Persons", and 47/88 of 16 December 1992, entitled "Towards full integration of persons with disabilities into society: a continuing world programme of action".

## Item 13. Elimination of All forms of intolerance and of discrimination based on religion or belief

188. The General Assembly, in its resolution 37/187 of 18 December 1982, requested the Commission on Human Rights to consider measures to implement the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, proclaimed by its resolution 36/55 of 25 November 1981. The Commission, in its resolution 1983/40, requested the Sub-Commission to undertake a comprehensive and thorough study of the current dimensions of the problems of intolerance and of discrimination on grounds of religion or belief, using as terms of reference the text of the Declaration.

189. In its resolution 1983/31, the Sub-Commission appointed Mrs. Elizabeth Odio Benito to undertake the study requested in Commission resolution 1983/40. The Special Rapporteur submitted her final report (E/CN.4/Sub.2/1987/26) to the Sub-Commission at its thirty-ninth session.

190. In its resolution 1985/34, the Sub-Commission decided that, starting at its thirty-ninth session, the present agenda item would be considered on a biennial basis.

191. Pursuant to Commission resolution 1988/55, the Sub-Commission considered, at its forty-first session, a working paper prepared by Mr. Theo van Boven (E/CN.4/Sub.2/1989/32) containing a compilation of provisions relevant to the elimination of intolerance and discrimination based on religion or belief contained in the Declaration and other international instruments, and examining, mindful of General Assembly resolution 41/120 of 4 December 1986 and taking into account the provisions of existing international instruments in this field, the issues and factors which should be considered before any drafting of a further binding international instrument on freedom of religion and belief took place.

192. Also at its forty-first session, the Sub-Commission adopted resolution 1989/23, in which it brought to the attention of the Commission certain issues and considerations and reaffirmed the willingness and interest of the Sub-Commission to make a further contribution to the activities which might be considered by the Commission in that field.

193. The Commission, at its forty-sixth session, adopted resolution 1990/27, in which, inter alia, it welcomed the working paper prepared by Mr. van Boven.

194. At its forty-third session, the Sub-Commission, in its resolution 1991/3, recommended to the Commission on Human Rights that due and renewed attention be given to:

(a) The organization, within the programme of advisory services, of a seminar on the interrelationship which exists between the enjoyment of the right to freedom of thought, conscience, religion and belief and the other human rights and fundamental freedoms, taking into account, inter alia, the work carried out by the Committee on the Elimination of Racial Discrimination and the Human Rights Committee in this field;

(b) The organization, in cooperation with the United Nations Educational, Scientific and Cultural Organization, the United Nations University, interested intergovernmental and non-governmental organizations, as well as academic and research institutionis, of a global consultation on the positions and approaches of different religions and beliefs to human rights and fundamental freedoms.

195. With respect to the present item, the attention of the Sub-Commission is also drawn to General Assembly resolution 47/129 of 18 December 1992 and Commission resolutions 1992/17 and 1993/25.

## Item 14. Discrimination against indigenous peoples

### Working Group on Indigenous Populations

196. The creation of the Working Group on Indigenous Populations was authorized by the Economic and Social Council in its resolution 1982/34 which authorized the Sub-Commission to establish annually a working group to:

(a) Review developments pertaining to the promotion and protection of human rights and fundamental freedoms of indigenous peoples, including information requested by the Secretary-General to analyse such materials, and to submit its conclusions to the Sub-Commission, bearing in mind the report of the Special Rapporteur of the Sub-Commission, Mr. José R. Martínez Cobo (E/CN.4/Sub.2/1986/7 and Add.1-4, the two final chapters being issued as a United Nations publication, Sales No. E.86.XIV.3);

(b) Give special attention to the evolution of standards concerning the rights of indigenous peoples, taking account of both the similarities and the differences in the situations and aspirations of indigenous peoples throughout the world.

197. The Working Group on Indigenous Populations held ten sessions prior to 1992. It submitted detailed reports (E/CN.4/Sub.2/1982/33, E/CN.4/Sub.2/1983/22, E/CN.4/Sub.2/1984/20, E/CN.4/Sub.2/1985/22 and Add.1, E/CN.4/Sub.2/1987/22 and Add.2, E/CN.4/Sub.2/1988/24 and Add.1, E/CN.4/Sub.2/1989/36, E/CN.4/Sub.2/1990/42, E/CN.4/Sub.2/1991/40 and Rev.1, E/CN.4/Sub.2/1992/33) to the Sub-Commission. These reports were also made available to the Commission.

198. At the present session, the Sub-Commission will have before it the report of the Working Group on its eleventh session (E/CN.4/Sub.2/1993/29).

Draft universal declaration on indigenous rights

199. In its resolution 1985/22, the Sub-Commission endorsed the plan of action adopted by the Working Group for its future work, contained in annex I of its report on its fourth session (E/CN.4/Sub.2/1985/22), as well as its decision to emphasize in its forthcoming sessions the part of its mandate relating to standard-setting activities, with the aim of producing, in due course, a draft declaration on indigenous rights which might be proclaimed by the General Assembly.

200. In its resolution 1992/33, the Sub-Commission, at its forty-fourth session, recommended that the Chairman-Rapporteur of the Working Group be entrusted with the task of further elaborating the paragraphs of the draft universal declaration which were agreed upon by the members of the Working Group at second reading.

201. In its resolution 1993/31, the Commission welcomed that recommendation of the Sub-Commission and recommended to the Economic and Social Council that the Working Group be authorized to meet for 10 working days prior to the forty-fifth session of the Sub-Commission.

202. At the present session, the Sub-Commission will have before it the further elaboration of the paragraphs of the draft declaration prepared by the Chairman-Rapporteur of the Working Group (E/CN.4/Sub.2/1993/26).

Ownership and control of cultural property of indigenous peoples

203. At its forty-second session, the Sub-Commission, in resolution 1990/25, entrusted Ms. Erica-Irene A. Daes with the preparation of a working paper on the question of the ownership and control of the cultural property of indigenous peoples for submission to the Working Group on Indigenous Populations at its ninth session, and requested all organs and organizations of the United Nations system with relevant expertise to provide Ms. Daes with the information and assistance she might require for the completion of that task.

204. At its forty-third session, the Sub-Commission had before it the working paper prepared by Ms. Daes (E/CN.4/Sub.2/1991/34). In its resolution 1991/32, the Sub-Commission decided to entrust Ms. Daes with the further task of preparing, for submission at its forty-fifth session in 1993, a study of measures which should be taken by the international community to strengthen respect for the cultural property of indigenous peoples. By Commission decision 1992/114 and Economic and Social Council decision 1992/256, Mrs. Daes was appointed Special Rapporteur to prepare a study on this issue.

205. At its forty-fourth session, the Sub-Commission, in resolution 1992/35, requested the Special Rapporteur to include in her study, inter alia, a comprehensive analysis of the laws and traditions of indigenous peoples with respect to the definition, ownership and control of cultural property, and preliminary views on the feasibility of developing a United Nations manual of indigenous laws in that field. The Sub-Commission recommended that the Special Rapporteur also include a consideration of the relationship between indigenous cultural and intellectual property, as well as recommendations for further research and action on intellectual property, and that the title of the study should be revised to "Protection of the cultural and intellectual property of indigenous peoples".

206. At the present session, the Sub-Commission will have before it the report prepared by the Special Rapporteur (E/CN.4/Sub.2/1993/28).

Study on the significance of treaties, agreements and other constructive arrangements

207. In its resolution 1987/17, the Sub-Commission recommended the appointment of Mr. Miguel Alfonso Martínez as Special Rapporteur with the mandate of preparing a study on the treaties concluded between indigenous peoples and States in all parts of the world with regard to the contemporary significance of such treaties for all parties concerned. In the same resolution, the Sub-Commission requested Mr. Alfonso Martínez to prepare a document analysing the general outline of such a study and the juridical, bibliographical and other information sources on which such a study should be based, and to submit the document to the Sub-Commission for consideration at its fortieth session.

208. In accordance with a recommendation made by the Commission in its resolution 1988/56, the Economic and Social Council, in decision 1988/134, authorized the appointment of Mr. Alfonso Martínez as Special Rapporteur of the Sub-Commission with the mandate of preparing an outline on the possible purposes, scope and sources of a study to be conducted on the potential utility of treaties, agreements and other constructive arrangements between indigenous populations and Governments for the purpose of ensuring the promotion and protection of the human rights and fundamental freedoms of indigenous populations. Furthermore, the Special Rapporteur was requested to give particular attention to certain guidelines promulgated in the Council resolution and to submit the outline to the Sub-Commission for consideration by the Working Group on Indigenous Populations at its sixth session.

209. In its resolution 1988/20, the Sub-Commission endorsed the outline of the study prepared by the Special Rapporteur. The Economic and Social Council, on the basis of recommendations by the Sub-Commission (resolution 1988/20) and the Commission (resolution 1989/4), adopted resolution 1989/77, in which it confirmed the appointment of Mr. Miguel Alfonso Martínez as Special Rapporteur of the Sub-Commission authorized to carry out the study, and requested the Special Rapporteur to submit a progress report to the Sub-Commission at its forty-first session.

210. At its forty-second session, in resolution 1990/28, the Sub-Commission requested the Special Rapporteur to submit a preliminary report on his study to the Working Group and the Sub-Commission. The preliminary report (E/CN.4/Sub.2/1991/33) was submitted to the Sub-Commission at its forty-third session.

211. At its forty-fourth session, the Sub-Commission had before it the progress report of the Special Rapporteur (E/CN.4/Sub.2/1992/32).

212. By its decision 1992/110, the Sub-Commission requested the Special Rapporteur to submit a second progress report on the study to the Working Group at its twelfth session and to the Sub-Commission at its forty-sixth session. This decision was endorsed by the Commission in its decision 1993/105.

International Year for the World's Indigenous Peoples

213. The General Assembly, at its forty-fifth session, in resolution 45/164 of 18 December 1990, proclaimed 1993 International Year for the World's Indigenous People, requested the Commission to consider possible United Nations activities in connection with the International Year and requested the Secretary-General to submit to the General Assembly at its forty-sixth session a draft programme of activities.

214. The Commission, at its forty-seventh session, adopted resolution 1991/57 by which it recommended that the specialized agencies, regional commissions and other organizations of the United Nations system, in their consideration of the contributions that they could make to the success of the International Year for the World's Indigenous People, be guided by how their operational activities could most effectively contribute to the solution of problems faced by indigenous people and how indigenous people could play an important role in the planning, implementation and evaluation of projects which might affect them. It requested the Secretary-General, in preparing the draft programme of activities for the International Year, to take into account the ongoing work of the Sub-Commission and the Working Group on Indigenous Populations and to consider specific recommendations for the coordination and implementation of the draft programme of activities.

215. At its forty-third session, the Sub-Commission adopted resolution 1991/33, entitled "International Year for the World's Indigenous People."

216. At its forty-sixth session, the General Assembly adopted resolution 46/128 of 17 December 1991 in which it:

(a) Requested the Secretary-General to proclaim during the forty-sixth session of the General Assembly, the theme "Indigenous people - a new partnership" for the International Year;

(b) Adopted the programme of activities for the International Year for the World's Indigenous People annexed to the resolution;

(c) Recommended the appointment of the Under-Secretary-General for Human Rights as the Coordinator of the International Year;

(d) Decided that the Coordinator should convene, early in 1992, a technical meeting of agencies, regional commissions and other relevant organizations of the United Nations system with representatives of States, organizations of indigenous people and other non-governmental organizations having a special interest in indigenous matters:

(i) To identify programme areas or capabilities that are of particular relevance and priority to indigenous people;

(ii) To agree on specific objectives for special projects to be implemented in 1993 as part of the International Year and to ensure their consonance with the theme and objectives of the Year;

(iii) To consider existing project guidelines and recommend effective means for including indigenous people in the initiation, the design and implementation of the foregoing;

(iv) To suggest appropriate procedures and criteria for the evaluation of projects involving indigenous people, in 1993 and thereafter;

(v) To consider what financial provisions, if any, need to be made to ensure implementation of the foregoing;

(vi) To report on the outcome of the technical meeting to the Commission on Human Rights at its forty-ninth session;

(e) Decided to conduct the opening ceremonies for the International Year for the World's Indigenous People at its forty-seventh session in 1992;

(f) Requested the Commission on Human Rights to convene a meeting of parties participating in the programme and projects of the International Year to assess after the International Year what conclusions could be drawn from the activities.

217. At its forty-eighth session, the Commission adopted resolution 1992/45, entitled "International Year for the World's Indigenous People".

218. The Coordinator of the International Year convened the technical meeting, as requested in General Assembly resolution 46/128, from 9 to 11 March 1992 (see E/CN.4/1992/AC.4/TM/8). The technical meeting was reconvened from 3 to 5 August 1992 (see E/CN.4/1992/AC.4/TM2/3). A special commemorative meeting of the General Assembly was held to inaugurate the International Year on 10 December 1992.

219. In its resolution 47/75, the General Assembly proclaimed 1993 to be the "International Year of the World's Indigenous People" and requested the Coordinator of the International Year to reconvene in the three working days preceding the eleventh session of the Working Group on Indigenous Populations the technical meeting provided for in General Assembly resolution 46/128. The meeting will be held from 14 to 16 July 1993.

220. The Sub-Commission's attention is also drawn to Commission on Human Rights resolution 1993/30, entitled "International Year of the World's Indigenous People, 1993".

United Nations Voluntary Fund for Indigenous Populations

221. As recommended by the Sub-Commission in its resolution 1984/35 C, the Commission in its resolution 1985/29 and the Economic and Social Council in its resolution 1985/38, the General Assembly, in resolution 40/131 of 13 December 1985, established the United Nations Voluntary Fund for Indigenous Populations. The purpose of the Fund is to assist representatives of indigenous communities and organizations to participate in the deliberations of the Working Group on Indigenous Populations by providing it with financial assistance, funded by means of voluntary contributions from Governments, non-governmental organizations and other public or private entities. The Voluntary Fund is administered by the Secretary-General with the advice of a five-member Board of Trustees. The Board of Trustees held its sixth session from 19 to 23 April 1993.

Relocation of Navajo and Hopi families

222. At its forty-second session, in resolution 1990/34, the Sub-Commission requested its Chairman to convey copies of the resolution to the interested parties along with the assurances of the continuing interest of the Sub-Commission in an early and equitable resolution of the situation concerning their relocation.

223. At its forty-fourth session, in resolution 1992/36, the Sub-Commission recommended that members of the Navajo Nation and Hopi Tribe participate in court-ordered mediation to seek a peaceful settlement of the situation and requested the mediator to submit all relevant information regarding the human rights aspects of the case in question and the outcome of the mediation to the Sub-Commission at its forty-fifth session.

224. At the present session, the Sub-Commission will have before it a note by the Secretary-General on this issue (E/CN.4/Sub.2/1993/27).

Item 15. Contemporary forms of slavery

Activities of the Working Group on Contemporary Forms of Slavery

225. In its resolution 13 (XXIII) of 21 March 1967, the Commission on Human Rights requested the Sub-Commission to undertake regular consideration of the question of slavery in all its forms, including the slavery-like practices of apartheid and colonialism.

226. Basing itself on a recommendation submitted by the Sub-Commission (resolution 7 (XXVI) and approved by the Commission (decision 5 (XXX) of 6 March 1974, the Economic and Social Council, by its decisions 16 (LVI) and 17 (LVI) of 17 May 1974, authorized the Sub-Commission to establish a working group composed of five of its members to meet prior to each session of the Sub-Commission to review developments in the field of slavery and the slave trade in all their practices and manifestations, including the slavery-like practices of apartheid and colonialism, the traffic in persons and the exploitation of the prostitution of others as defined in the Slavery Convention of 1926, the Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery of 1956, and the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others of 1949. The Sub-Commission established the Working Group on Slavery by its resolution 11 (XXVII) of 21 August 1974. In its resolution 1988/42, the Commission on Human Rights endorsed the recommendation of the Sub-Commission that the name of the Working Group on Slavery should be changed to "Working Group on Contemporary Forms of Slavery".

227. At its fortieth session, the Sub-Commission adopted resolution 1988/31, in which it approved the programme of work of the Working Group for the period 1989-1991. This programme of work included three main themes which were discussed in successive years: prevention of the sale of children, of prostitution of children and of the use of children in pornography (1989); eradication of the exploitation of child labour and of debt bondage (1990); and prevention of traffic in persons and of the exploitation of the prostitution of others (1991). In addition, at each session, the Working Group reviewed information received on the status and the implementation of conventions on slavery and slavery-like practices, review developments in other fields of contemporary forms of slavery and consider the recommendations adopted at previous sessions. In its resolution 1989/41, the Sub-Commission decided to consider those matters in subsequent sessions under the agenda item "Contemporary forms of slavery".

228. At its forty-fourth session, in resolution 1992/2, the Sub-Commission, inter alia, requested the Working Group to study the possibility of preparing guiding principles for combating the various contemporary forms of slavery and to endeavour to identify the spheres in which such guiding principles could be applied and requested the Secretary-General to seek the views and suggestions of Member States and governmental and non-governmental organizations on that subject with a view to the consideration of their replies by the Working Group at its future sessions.

229. The Commission, at its forty-ninth session, in resolution 1993/27, appealed to all Governments to send representatives to the meetings of the Working Group and encouraged the Sub-Commission, including its Working Group, to continue to elaborate recommendations on the ways and means of establishing an effective mechanism for the implementation of the Conventions on slavery on the basis of the study prepared by the Secretary-General on that issue (E/CN.4/Sub.2/1989/37). In the same resolution, the Commission endorsed the recommendation of the Sub-Commission in its resolution 1992/2 that arrangements regarding the organization of the sessions of the Working Group on Contemporary Forms of Slavery, as contained in Commission decision 1992/115, be repeated in subsequent years.

230. By its decision 1993/112, the Commission endorsed the Sub-Commission's request to the Secretary-General to invite annually States that had not acceded to or ratified the international conventions on slavery to explain why they had not done so, and to report on their replies to the Sub-Commission at its forty-fifth session and to the Commission at its fiftieth session.

231. At the present session, the Sub-Commission will have before it the report of the Working Group on Contemporary Forms of Slavery on its eighteenth session (E/CN.4/Sub.2/1993/30), which was held from 17 to 27 May 1993 at Geneva, and a note by the Secretary-General (E/CN.4/Sub.2/1993/35).

Sale of children, child prostitution and child pornography

232. In its resolution 1992/74, the Commission, at its forty-eighth session, adopted the Programme of Action for the prevention of the sale of children, child prostitution and child pornography submitted by the Sub-Commission. The Commission requested all States to inform periodically the Sub-Commission of measures adopted to implement the Programme of Action and on the efficacy of such measures, and requested the Sub-Commission to submit every two years a report to the Commission on the state of implementation of the Programme of Action by all States.

233. In its resolution 1992/2, the Sub-Commission, at its forty-fourth session, requested the Working Group on Contemporary Forms of Slavery to examine the state of the implementation of the Programme of Action at its eighteenth session and to transmit, through the Sub-Commission, a report thereon to the Commission at its fiftieth session.

234. At the present session, the Sub-Commission will have before it the report of the Working Group (E/CN.4/Sub.2/1993/31 and Add.1) pursuant to Sub-Commission resolution 1992/2.

Exploitation of child labour and debt bondage

235. At its forty-fourth session, the Sub-Commission, in resolution 1992/2, reiterated its request to the Commission on Human Rights to authorize it to consider the possibility of appointing a special rapporteur to update Mr. Abdelwahab Boudiba's report on the exploitation of child labour (E/CN.4/Sub.2/479), submitted to the Sub-Commission at its thirty-fourth session in 1981, and to extend that study to the problem of debt bondage.

236. In the same resolution, the Sub-Commission decided to transmit to the Commission on Human Rights the draft programme of action for the elimination of the exploitation of child labour, as reformulated by the Working Group on Contemporary Forms of Slavery on the basis of comments submitted by States, specialized agencies and interested non-governmental organizations pursuant to Commission on Human Rights resolutions 1991/54 and 1992/74, contained in the report of the Working Group (E/CN.4/Sub.2/1992/34, annex I).

237. At its forty-ninth session, the Commission, in resolution 1993/79, adopted the Programme of Action for the Elimination of the Exploitation of Child Labour submitted by the Sub-Commission and requested all States periodically to report to the Sub-Commission on measures adopted to implement the Programme of Action and on the effectiveness of such measures. The Sub-Commission was requested to submit to the Commission every two years a progress report on the implementation of the Programme of Action by all States. The Commission decided to consider the question of the implementation of the Programme of Action every two years in order to evaluate the progress made in eliminating the exploitation of child labour.

238. By its decision 1993/112, the Commission authorized the Sub-Commission to consider the possibility of appointing a special rapporteur to update the report of the Special Rapporteur on the exploitation of child labour, Mr. Abdelwahab Boudiba (E/CN.4/Sub.2/479), submitted to the Sub-Commission at its thirty-fourth session, and to extend that study to the problem of debt bondage.

Prevention of traffic in persons and the exploitation of the prostitution of others

239. At its forty-eighth session, the Commission on Human Rights, in its resolution 1992/36, endorsed the views expressed by the Sub-Commission in its resolution 1991/37 on it being desirable to launch concerted action to combat traffic in persons and the exploitation of the prostitution of others and decided to transmit the draft programme of action for the prevention of traffic in persons and the exploitation of the prostitution of others, drawn up by the Working Group on Contemporary Forms of Slavery (E/CN.4/Sub.2/1991/41, annex I), to Governments, specialized agencies and intergovernmental and non-governmental organizations for their comments. The Commission also decided to examine, at its forty-ninth session, the draft programme of action and the report of the Secretary-General containing a summary of the comments received.

240. At its forty-ninth session, the Commission had before it the report of the Secretary-General (E/CN.4/Sub.2/1993/58 and Add.1) containing a summary of the comments received. No action was taken by the Commission at its forty-ninth session with regard to the draft programme of action and the comments contained in the above-mentioned report.

United Nations Voluntary Trust Fund on Contemporary Forms of Slavery

241. In its resolution 46/122 of 17 December 1991, the General Assembly, at its forty-sixth session, decided to establish a voluntary trust fund on contemporary forms of slavery, the purposes of which should be, first, to assist representatives of non-governmental organizations from different regions, dealing with issues of contemporary forms of slavery, to participate in the deliberations of the Working Group on Contemporary Forms of Slavery by providing them with financial assistance and, second, to extend, through established channels of assistance, humanitarian, legal and financial aid to individuals whose human rights have been severely violated as a result of contemporary forms of slavery. It also decided that the Fund should be administered in accordance with the Financial Regulations and Rules of the United Nations and other relevant provisions, with the advice of a board of trustees composed of five persons with relevant experience in the field of human rights and contemporary forms of slavery in particular, who would serve in their personal capacity; and that the members of the Board of Trustees should be appointed by the Secretary-General for a renewable three-year term in consultation with the current Chairman of the Sub-Commission and with due regard to equitable geographical distribution.

242. In accordance with this resolution and after consultation with the Chairperson of the Sub-Commission, the Secretary-General decided to appoint the following five members to the Board of Trustees for a three-year term of office expiring on 31 December 1995: Mr. Cheik Saad-Bouh Kamara (Africa), Mr. Swami Agnivesh (Asia), Mr. Michel Bonnet (Western Europe), Ms. Tatiana Matveeva (Eastern Europe) and Ms. Eugenia Zamora Chavarría (Latin America).

243. The first session of the Board of Trustees of the Fund was held at the United Nations Office at Geneva from 22 to 26 March 1993.

Validity of reservations to the Convention on the Elimination of All Forms of Discrimination against Women

244. At its forty-third session, the Sub-Commission, by its decision 1991/115, decided to suspend consideration of draft resolution E/CN.4/Sub.2/1991/L.49, entitled "Validity of reservations to the Convention on the Elimination of All Forms of Discrimination against Women", until its forty-fourth session.

245. At its forty-fourth session, the Sub-Commission, in resolution 1992/3, requested the Secretary-General to seek the views of the Committee on the Elimination of Discrimination against Women and the Commission on the Status of Women on the desirability of obtaining an advisory opinion on the validity and legal effect of reservations to the Convention on the Elimination of All Forms of Discrimination against Women and to invite them, in their replies, to make such further observations on the issue of reservations to that Convention as they might consider appropriate. Also in that resolution, the Sub-Commission decided to reconsider draft resolution E/CN.4/Sub.2/1991/L.49 at its forty-fifth session in the light of the replies received from the Committee on the Elimination of Discrimination against Women and the Commission on the Status of Women.

246. At the present session, the Sub-Commission will have before it the report of the Secretary-General (E/CN.4/Sub.2/1993/32).

247. With regard to the issues under this item, the Sub-Commission may also wish to note the following resolutions the Commission adopted at its forty-ninth session:

1993/26 United Nations Voluntary Trust Fund on Contemporary Forms of Slavery

1993/81 The plight of street children

1993/82 Special Rapporteur on the sale of children, child prostitution and child pornography

Item 16. Promotion, protection and restoration of human rights at national, regional and international levels

Sub-item (a) Prevention of discrimination and protection of children: human rights and youth

248. At its thirty-seventh session, the Sub-Commission decided to include in its provisional agenda for the thirty-eighth session a sub-item entitled "Prevention of discrimination and protection of children".

249. At its thirty-eighth session, the Sub-Commission, in its resolution 1985/12, referring, inter alia, to Commission resolution 1985/13, requested Mr. Dumitru Mazilu to prepare a report on human rights and youth analysing the efforts and measures for securing the implementation and enjoyment by youth of human rights, particularly the right to life, education and work, in order to facilitate the Sub-Commission's discussion of the topic.

250. The Sub-Commission considered the question of the availability of the study of the Special Rapporteur at some length at its fortieth and forty-first sessions, adopting resolutions 1988/37 and 1989/45. It will be recalled that the personal situation of the Special Rapporteur, Mr. Mazilu, was the subject of consideration by the Commission on Human Rights and the Economic and Social Council. At the request of the latter, the International Court of Justice gave an advisory opinion on 15 December 1989 on the applicability of the Convention on the Privileges and Immunities of the United Nations in the case of rapporteurs and special rapporteurs of the Sub-Commission (see E/1990/15/Add.1).

251. At its forty-second session, the Sub-Commission, in resolution 1990/32, having considered the updated report of the Special Rapporteur, decided to request Mr. Mazilu to update and complete his report. The Special Rapporteur submitted his progress report (E/CN.4/Sub.2/1991/42) to the Sub-Commission at its forty-third session and his final report (E/CN.4/Sub.2/1992/36) at its forty-fourth session.

Sub-item (b) Prevention of discrimination and protection of women

252. At its thirty-seventh session, the Sub-Commission decided to include in its provisional agenda a sub-item on the prevention of discrimination and protection of women.

253. In its resolution 1987/26, the Sub-Commission requested the Secretary-General to make available to it, at each of its future sessions, the reports of the Committee on the Elimination of Discrimination against Women and of the Commission on the Status of Women.

254. At its forty-fourth session, the Sub-Commission, in resolution 1992/4, reaffirmed that women's rights were recognized as inalienable human rights and that they should be treated as such in all United Nations bodies, including the Commission on Human Rights. The Sub-Commission recommended that the forthcoming World Conference on Human Rights give priority to the question of discrimination affecting women and their status, both in its agenda and in the documentation prepared for the World Conference. The Sub-Commission also recommended that information on the equality and empowerment of women, and their access to equality in education, work, health and literacy, be included in States' reports to all human rights monitoring bodies and not only to the Committee on the Elimination of Discrimination against Women. The Secretary-General was requested to report on the implementation of resolution 1992/4 to the Sub-Commission at its forty-fifth session.

255. The attention of the Sub-Commission is drawn to Commission resolution 1993/46, entitled "Integrating the rights of women into human rights mechanisms of the United Nations", in which the Commission, inter alia, requested all special rapporteurs and working groups of the Commission and the Sub-Commission, in the discharge of their mandates, regularly and systematically to include in their reports available information on human rights violations affecting women. The Commission decided to consider the appointment of a special rapporteur on violence against women at its fiftieth session, taking into account the work of the Commission on the Status of Women on, inter alia, the issue of violence against women, the results of the World Conference on Human Rights and the results of the work undertaken pursuant to the present resolution. The Commission requested the Secretary-General to consult with all United Nations human rights bodies, including the treaty bodies, on the implementation of that resolution, and invited him to report thereon to the General Assembly at its forty-eighth session and to the Commission at its fiftieth session.

256. At the present session, the Sub-Commission will have before it the report of the Secretary-General (E/CN.4/Sub.2/1993/33) on the implementation of Sub-Commission resolution 1992/4.

257. With regard to the issues under this item, the Sub-Commission may wish to note the following resolutions of the Commission adopted at its forty-ninth session:

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| 1993/8 | Rape and abuse of women in the territory of the former Yugoslavia |
| 1993/78 | Implementation of the Convention on the Rights of the Child |
| 1993/83 | Effects of armed conflicts on children's lives |
| 1993/84 | Conscientious objection to military service |

258. In disucssing this item, the Sub-Commission may also wish to take into account the following resolutions adopted by the General Assembly at its forty-seventh session:

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| 47/85 | Policies and programmes involving youth |
| 47/94 | Convention on the Elimination of All Forms of Discrimination against Women |
| 47/95 | Implementation of the Nairobi Forward-looking Strategies for the Advancement of Women |
| 47/96 | Migrant women workers |
| 47/112 | Implementation of the Convention on the Rights of the Child |
| 47/126 | The plight of street children |

## Item 17. Protection of minorities

259. The Sub-Commission, at its fortieth session, in resolution 1988/36, invited Ms. Claire Palley to prepare a working paper on possible ways and means to facilitate the peaceful and constructive resolution of situations involving racial, national, religious and linguistic minorities.

260. At its forty-first session, the Sub-Commission, in resolution 1989/44, having examined the working paper (E/CN.4/Sub.2/1989/43) prepared by Ms. Palley, decided to entrust Mr. Asbjørn Eide with the preparation of a further report on national experience in the protection of minorities, and decided to consider those issues at its forty-second and future sessions under a separate agenda item. By decision 1990/105, the Commission on Human Rights endorsed the decision of the Sub-Commission to entrust Mr. Eide with the task of preparing a study.

261. In its resolution 1990/5, the Sub-Commission, having considered the report prepared by Mr. Eide (E/CN.4/Sub.2/1990/46), requested him to submit a preliminary report to the Sub-Commission at its forty-third session. It recommended to the Commission on Human Rights that it endorse the working methods proposed by the Special Rapporteur and approve the undertaking of his study. In its resolution 1991/62, the Commission endorsed the recommendation of the Sub-Commission.

262. In its resolution 1991/22, the Sub-Commission, at its forty-third session, requested the Secretary-General to prepare, in cooperation with the Special Rapporteur, the technical meeting of experts on minorities provided for in Commission resolution 1991/62, and requested the Special Rapporteur to submit an updated report to the Sub-Commission at its forty-fourth session, and his final report at its forty-fifth session. By its decision 1992/112, the Commission approved the requests of the Sub-Commission.

263. At its forty-fourth session, the Sub-Commission, in resolution 1992/37, reiterated its request to the Secretary-General to prepare, with the cooperation of the Special Rapporteur, the technical meeting of experts on minorities, as provided for in decision 1992/112 of the Commission on Human Rights. In the same resolution, the Special Rapporteur was requested to submit his final report to the Sub-Commission at its forty-fifth session.

264. The technical meeting of experts on minorities was held at Geneva from 2 to 4 February 1993. A note by the Secretary-General on this meeting (E/CN.4/Sub.2/1993/85) was circulated at the forty-ninth session of the Commission on Human Rights.

265. The Sub-Commission will recall that the Commission, at each session since the thirty-fourth, has established an open-ended working group to consider the drafting of a declaration on the rights of persons belonging to national, ethnic, religious and linguistic minorities. At its forty-eighth session, the Commission adopted resolution 1992/16 in which it approved the text of the draft declaration and recommended that the Economic and Social Council approve the draft declaration and recommend it to the General Assembly for adoption and further action. The Council approved the text of the draft declaration in its resolution 1992/4.

266. In its resolution 47/135 of 18 December 1992, the General Assembly adopted the Declaration on the Rights of Persons belonging to National or Ethnic, Religious and Linguistic Minorities. In the same resolution, the General Assembly invited the relevant organs and bodies of the United Nations, inter alia, treaty bodies and representatives of the Commission and the Sub-Commission, to give due regard to the Declaration within their mandates, and requested the Secretary-General to consider appropriate ways for the effective promotion of the Declaration and to make proposals thereon.

267. The attention of the Sub-Commission is also drawn to Commission on Human Rights resolution 1993/24, entitled "Rights of persons belonging to national or ethnic, religious and linguistic minorities".

268. At the present session, the Sub-Commission will have before it the final report of the Special Rapporteur (E/CN.4/Sub.2/1993/34 and Add.1 and 2).

## Item 16. Freedom of movement

269. At its fortieth session, in resolution 1988/39, the Sub-Commission, having noted the report (E/CN.4/Sub.2/1988/35 and Add.1) on the right of everyone to leave any country, including his own, and to return to his country, prepared by Mr. C.L.C. Mubanga-Chipoya, and the draft declaration on this subject contained in annex I to the report, decided to consider this issue as a separate item of its agenda at its forty-first session.

270 At its forty-first session, in resolution 1989/25, the Sub-Commission decided to establish a sessional working group with a view to preparing a revised version of the draft declaration on the subject.

271. At its forty-second session, by decision 1990/123, the Sub-Commission decided to establish, at its forty-third session, a working group to continue work on the draft declaration. It requested Mr. W. Sadi to prepare the revised version of the draft declaration, on the basis of the discussions in the open-ended working group at its forty-second session and the comments and proposals contained in document E/CN.4/Sub.2/1990/47, to be submitted in 1991 for analysis and discussion by the working group with a view to its submission to the Sub-Commission at its forty-third session.

272. At its forty-third session, the Sub-Commission had before it the revised version of the draft declaration (E/CN.4/Sub.2/1991/44) and the report of the sessional Working Group (E/CN.4/Sub.2/1991/45). By its decision 1991/114, the Sub-Commission decided to transmit to the Commission the report of the 1991 session of the Working Group, inviting the Commission to provide comments and guidance on the issues mentioned in the report.

273. No action was taken by the Commission at its forty-eighth session.

274. At its forty-fourth session, the Sub-Commission, by its decision 1992/112, decided to include in the provisional agenda of its forty-fifth session an item, provisionally entitled "Freedom of movement", as item 18.

Item 19. Consideration of the future work of the Sub-Commission and of the draft provisional agenda for the forty-sixth session of the Sub-Commission

275. The Economic and Social Council, in its resolution 1984 (LVII) of 1 August 1974, requested the Secretary-General to submit at each session of a functional commission or subsidiary body of the Council a draft provisional agenda for its following session, together with an indication, in respect of each agenda item, of the documents to be submitted under that item and the legislative authority for their preparation, with a view to enabling the functional commission or subsidiary body concerned to consider the documents from the point of view of their contribution to the work of the respective bodies.

276. Pursuant to that request, the Secretary-General will submit to the Sub-Commission, towards the end of the forty-fifth session, a note containing a draft provisional agenda for the forty-sixth session, together with information concerning the documentation relating thereto (E/CN.4/Sub.2/1993/L.1).

Item 20. Adoption of the report on the forty-fifth session

277. Under rule 37 of the rules of procedure, the Sub-Commission is to report to the Commission on Human Rights on the work of its session. In this connection, the Sub-Commission may wish to take account of the revised guidelines for the format and contents of the report of functional commissions and standing committees of the Economic and Social Council (E/1979/94) approved by the Council in its resolution 1979/69. This resolution and the revised guidelines are available for consultation in the secretariat.

Annex

MEMBERS AND ALTERNATES OF THE SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES

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| Mr. Miguel Alfonso Martínez<br>*Ms. Marianela Ferriol Echevarría | (Cuba) |
| Mr. Awn Shawkat Al-Khasawneh<br>*Mr. Waleed M. Sadi | (Jordan) |
| Ms. Judith Sefi Attah<br>*Mrs. Christy Ezim Mbonu | (Nigeria) |
| Mr. Marc Bossuyt<br>*Mr. Guy Genot | (Belgium) |
| Mr. Volodymyr Boutkevitch<br>*Mr. Olexandre Kouptchichine | (Ukraine) |
| Ms. Linda Chavez<br>*Mr. Robert J. Portman | (United States of America) |
| Mr. Stanislav V. Chernichenko<br>*Mr. Teimuraz O. Ramishvili | (Russian Federation) |
| Ms. Erica-Irene A. Daes<br>*Mr. Alexis Heraclides | (Greece) |
| Mr. Leandro Despouy<br>*Mr. Juan Carlos Hitters | (Argentina) |
| Mr. Asbjørn Eide<br>*Mr. Jan Helgesen | (Norway) |
| Mrs. Clemencia Forero Ucros<br>*Mr. Jorge Orlando Melo | (Colombia) |
| Mr. El Hadji Guissé<br>*Mr. Ndary Toure | (Senegal) |
| Mr. Mukaum-Ul-Hakim<br>*Mr. Tofazzal Hossain Khan | (Bangladesh) |
| Mr. Ribot Hatano<br>*Mr. Yozo Yokota | (Japan) |
| Mr. Claude Heller<br>*Mr. Héctor Fix Zamudio | (Mexico) |
| Mr. Louis Joinet<br>*Mr. Alain Pellet | (France) |

* Alternate

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|---|---|
| Mr. Ahmed Khalifa<br>*Mr. Ahmed Khalil | (Egypt) |
| Ms. Fatma Zohra Ksentini<br>*Ms. Farida Aiouaze | (Algeria) |
| Mr. Ioan Maxim<br>*Mr. Petru Pavel Gavrilescu | (Romania) |
| Ms. Claire Palley<br>*Mr. John Merrills | (United Kingdom of Great Britain and Northern Ireland) |
| Mr. Said Naceur Ramadhane<br>*Mr. Abdelfettah Amor | (Tunisia) |
| Mr. Gilberto Vergne Saboia<br>*Ms. Marília S. Zelner Gonçalves | (Brazil) |
| Mr. Rajindar Sachar | (India) |
| Mr. Tian Jin<br>*Mr. Zhan Daode | (China) |
| Ms. Halima Embarek Warzazi<br>*Mr. Mohamed Benkadoour | (Morocco) |
| Mr. Fisseha Yimer | (Ethiopia) |

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